



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was scheduled to hear the landlord's request to retain the tenant's security deposit. The landlord sent the hearing documents to the tenant via registered mail addressed to the rental unit on November 2, 2011. The registered mail was returned as unclaimed.

The landlord submitted that he had not seen the tenant at the rental unit for over a month at the time the application was made and the tenant had not paid rent for October 2011. The landlord testified that on November 4, 2011 a bailiff removed three boxes of the tenant's possessions from the rental unit. The tenant has not provided a forwarding address to the landlord.

The purpose of serving documents under the Act is to notify the person being served of their breach and the action being taken against them. Dispute resolution proceedings are based on the principles of natural justice. Natural justice requires that a respondent be informed of the nature of the claim and the monetary amount sought against them by the applicant. This is one of the many purposes of serving the Application for Dispute Resolution and the Notice of Hearing.

The landlord has applied for a Monetary Order which requires that the landlord serve each respondent as set out under section 89(1) of the Act. Section 89(1) provides that where registered mail is used to serve hearing documents, the registered mail must be sent to the address at which the person resides or, if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

I am satisfied the tenant did not provide the landlord with a forwarding address, in writing, as required by section 38(1) of the Act; thus, I find the issue to determine is whether the tenant was residing at the rental unit when the registered mail was sent on November 2, 2011.

Having heard the tenant had not been seen at the rental unit in over a month when the registered mail was sent to the tenant and the tenant had not paid rent for October 2011 I find it reasonably likely the tenant had abandoned the rental unit. Thus, I find I am not satisfied he was residing at the rental unit when the hearing documents were mailed to him.

In light of the above, I dismiss this application with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 19, 2012.

Residential Tenancy Branch