



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, FF

DECISION AND REASONS

This hearing dealt with the landlord's Application for Dispute Resolution, seeking to retain all or part of the tenants' security deposit, for a monetary order for damage to the rental unit and to recover the filing fee.

The landlord's agent appeared and gave affirmed testimony.

The landlord's agent testified and supplied evidence that the tenants were served the Application and Notice of the Hearing Package via registered mail on or about December 9, 2011.

Upon query, the landlord's agent stated that her spouse, another agent for the landlord, asked for the tenants' forwarding address at the initial end-of-tenancy walk through of the rental unit. According to the landlord's agent present, her spouse wrote the forwarding address on a piece of paper. Additionally the landlord's agent stated that the address corresponded with the tenants' application for tenancy.

The landlord did not submit the piece of paper said to contain the tenants' forwarding address or the application for tenancy. As well, the landlord's agent who received the tenants' verbal notification was not present at the hearing to testify.

The Residential Tenancy Act (the "Act") and principles of natural justice require that the tenants/respondents be informed of the nature of the claim and the monetary amount sought against them. This is one of the many purposes of the Application for Dispute Resolution and the Notice of Hearing. Without being served in a manner conforming to the Act and the Residential Tenancy Branch Rules of Procedure, the tenants/respondents would easily have any Decision or Order made against them overturned upon Review.

With the lack of evidence as well as testimony from the landlord's agent receiving the information before me, I cannot determine that the address used by the landlord to serve the tenants was the address provided by the tenants.

Therefore, on a balance of probabilities and insufficient evidence by the landlord, I find the tenants have not been served with the Notice of Hearing and Application for Dispute Resolution as required by Section 89 of the Act. I therefore **dismiss** the landlord's 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: February 22, 2012.

Residential Tenancy Branch