



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for damage to the unit, site, or property, to keep the security deposit, and to recover the cost of the filing fee from the Tenant for this application.

Issue(s) to be Decided

1. Has the Tenant been served Notice of this Dispute Resolution Application and hearing in accordance with section 89 of the *Residential Tenancy Act*?

Background and Evidence

At the outset of the teleconference hearing the Landlord affirmed that he personally served the Dispute Resolution hearing documents to the Tenant's parents. He stated that he does not know where the Tenant is currently living and opted to serve her parents who live in his neighbourhood.

Analysis

Section 89(1) of the *Residential Tenancy Act* provides methods of service for an application for Dispute Resolution when the applicant is seeking monetary compensation as follows:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord provided affirmed testimony that he does not know where the Tenant is residing and that he served the Dispute Resolution hearing documents to the Tenant's parents who reside in his neighbourhood which does not meet the requirements of service as outlined above. Accordingly I find that service of the Notice of Dispute Resolution was not effected in accordance with Section 89 of the *Residential Tenancy Act*.

As I have found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Landlord's claim, with leave to reapply.

The Landlord has not been successful with his application: therefore I find that he must bear the burden of the cost to file this application.

Conclusion

I HEREBY DISMISS the Landlord's claim, 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 16, 2012.

Residential Tenancy Branch