



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by posting it on the door of the rental unit on December 20, 2011. The Landlord continued to say that the Tenant did not received the documents as they moved out of the unit on May, 26, 2009, but that was the last known address that he had for the Tenant. Based on the evidence of the Landlord, I find that the Tenant was not served with the Landlord's hearing package as required by s. 89 of the Act.

At the start of the conference call the Landlord said the Tenant moved out of the rental unit on May 26, 2009 and he took the unit off the rental market in July, 2009 and then moved an acquaintance into the rental unit in November, 2009 rent free. Section 60 (1) of the Act says an application must be made within 2 years of the end of the tenancy. I find the tenancy ended on May 26, 2009 when the Tenant moved out of the unit. Consequently the Landlord's application dated December 15, 2011 is past the 2 year limit for applications which in this situation expired on May 26, 2011. As a result I dismiss the Landlord's application without leave to reapply.

Conclusion

The Landlord's application is dismissed without 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*.

Residential Tenancy Branch