



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlords for compensation for repairs and liquidated damages, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlord served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail to the rental unit address on February 16, 2012. The Tenants did not pick up the hearing packages and they were returned to the Landlord. The Landlord's agent admitted that the tenancy ended on or about January 30, 2012 when the Tenants moved out and that they did not give him a forwarding address. The Landlord's agent claimed he was advised by an information Officer at the Residential Tenancy Branch that he could send the hearing packages to the Tenants' *last known residence*.

Section 89(1) of the Act says that an application for a monetary compensation must be served either in person or by registered mail to the person's **current residence**. Had the Landlord's hearing packages been forwarded by Canada Post to the Tenants' current residence and received by them then the Landlord's service attempts would have been sufficient. However, in this case, I find that the Landlord served the hearing packages at the Tenants' previous residence knowing they no longer resided there and those packages were not received by the Tenants. Consequently, I find that the Tenants were not served with the Landlord's hearing packages as required by s. 89(1) of the Act and as a result, the Landlord's application is dismissed with 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*.

Dated: April 18, 2012.

Residential Tenancy Branch