



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND 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 and to recover the cost of the filing fee from the Tenant for this application.

Issue(s) to be Decided

1. Have the hearing documents been served upon the Tenant?

Background and Evidence

At the outset of the hearing the Landlord advised that the hearing documents were sent to the Tenant via registered mail and were returned to the Landlord unclaimed. The Landlord initially stated the service address was provided by the Tenant and was listed on the move out inspection.

Upon review of the condition inspection report it was noted that the address provided by the Tenant was not the address used for service of the hearing documents. The Landlord stated he did not know how or where the service address was obtained.

Analysis

The evidence supports the Notice of Dispute Resolution package was sent via registered mail to the Tenant and was returned unclaimed. The Landlord was not able to confirm that the Tenant resided at this address nor could he confirm where he obtained the address.

I find that service of the Notices of Dispute Resolution were not effected in accordance with Section 89 of the *Residential Tenancy Act* which states that service of Notice of Dispute Resolution, if sent via registered mail, must be sent to the address at which the person resides.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. 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.

As the Landlord has not been successful with his application, I find that he is not entitled to recover the cost of the filing fee from the Tenant.

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: July 24, 2012.

Residential Tenancy Branch