



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on September 17, 2012 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. Several days ago that mail was returned to the landlord marked as unclaimed.

The landlord had given the tenant a 10 Day Notice to End Tenancy which had an effective date of September 16, 2012. The landlord was not able to say when the tenant vacated, or if he moved out on the effective date of the Notice. On October 8, 2012, the landlord had to enter the unit and on that date determined the tenant had vacated.

As there was no evidence before me indicating the tenant remained in the unit beyond the effective date of the Notice, September 16, 2012, I am unable to find that service by registered mail sent on September 17, 2012, was served. Therefore, I find, in the absence of evidence that the tenant was living in the unit after September 16, 2012 that he was not served with Notice of the hearing and that the application is dismissed with leave to reapply.

Conclusion

The application is dismissed with leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 18, 2012.

Residential Tenancy Branch