

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution, seeking an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

An agent for the landlord (the "agent") attended the hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent testified that the Notice was mailed via registered mail to the rental unit on December 28, 2012. A tracking number was provided as evidence. The agent testified that he could not be certain that the tenant was still living at the rental unit on the day the registered mail was mailed to the tenant as the agent has confirmed that the tenant is no longer living in the rental unit and the landlord is no longer requesting an order of possession as a result.

The agent testified that the tenant failed to provide the landlord with their forwarding address. The agent stated that he did not confirm the delivery status of the registered mail package to determine if it was successfully delivered to the tenant.

Residential Tenancy Branch Policy Guideline #12 Service Provisions requires that where a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant. The agent stated that the tenant is no longer living in the rental unit and is uncertain on the date they vacated. Therefore, **I find** the tenant has not been served in accordance with Policy Guideline #12 as the tenant may have vacated the rental unit by December 28, 2012.

The tenant has a right to a fair hearing and would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing. Therefore, **I dismiss** the landlord's application **with leave to reapply**. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The landlord's application is dismissed with leave to reapply.

This decision does not extend any applicable time limits under the *Act*.

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: January 24, 2013