



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 dealt with an Application for Dispute Resolution filed on January 4, 2013, by the Landlords to obtain an Order of Possession for unpaid rent or utilities and a Monetary Order for unpaid rent or utilities; to keep the security deposit, and to recover the cost of the filing fee from the Tenants for this application.

The Landlord appeared at the teleconference hearing; however, no one appeared on behalf of the Tenants.

Issue(s) to be Decided

Have the Landlords served their Application and notice of hearing documents in accordance with the *Residential Tenancy Act* (the Act)?

Background and Evidence

At the outset of this proceeding the Landlord confirmed that the Tenants vacated the property on January 4, 2013. She stated that there is no mail delivery in their rural community and all mail is sent to post office boxes. She said she saw the Tenants in town shortly after filing her application and they verbally provided her with a P.O. Box number which is the address that she sent the registered mail packages. The Tenants have not provided her a forwarding address, in writing.

The Landlord confirmed that both registered mail packages have been returned to her and both have been marked "moved". She stated she does not know if the Tenants are still residing in that community and she does not know of any address to serve them at.

Analysis

The Landlord advised the Tenants vacated the property on January 4, 2013, and that she mailed her application for dispute resolution and hearing documents to a post office box on January 7, 2013. The registered mail was returned and marked "Moved".

Accordingly, 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 if the application is for a Monetary Order then service of the 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 her application, I find that she is not entitled to recover the cost of the filing fee.

Conclusion

I HEREBY DISMISS the Landlord's application, 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: January 30, 2013

Residential Tenancy Branch

