



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the conference call hearing, gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing. However, despite the landlord's efforts in serving the tenant by registered mail, the tenant did not attend. The landlord testified and provided copies of registered mail documents showing that the tenant was served in that manner on February 8, 2013 at the address of the rental unit, however the documents were returned to the landlord unclaimed by the tenant. Further, the landlord testified that the tenant moved out of the rental unit prior to February 8, 2013 as a result of an Order of Possession issued by the Residential Tenancy Branch, and the tenant did not move when required to do so and refused to provide a forwarding address to the landlord.

The *Residential Tenancy Act* states that documents served by registered mail are deemed to have been served 5 days after service. The *Act* also states that an Application for Dispute Resolution, when served upon a tenant by registered mail, must be served to the address at which the person resides or to a forwarding address provided by the tenant. The landlord in this case has served the tenant by registered mail at an address that the landlord knows is not a forwarding address or an address at which the tenant resides. Therefore, I cannot find that the tenant has been served in accordance with the *Act*, and the landlord's claim must be dismissed.

The *Act* also specifies that a claim must be made within 2 years of the date that the tenancy ends. The landlord may learn the whereabouts of the tenant at a future date, and I dismiss this application with leave to reapply.

Conclusion

For the reasons set out above, the landlord's application is hereby dismissed 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: April 30, 2013

Residential Tenancy Branch