



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF, SS

Introduction

This review hearing took place to hear the landlord's application after a hearing and Monetary Order were granted to the tenant in the absence of the landlord at a reconvened hearing held on March 21, 2013. This review hearing was granted after the landlord filed an application for Review Consideration on April 25, 2013 and the original decision was suspended pending the outcome of this review hearing. The landlord has applied for a Monetary Order for damage to the unit, site or property; for a Monetary Order for unpaid rent; for an Order permitting the landlord to keep all or part of the tenants security deposit; and to recover the filing fee from the tenant for the cost of this application.

At the original hearing the landlord had also applied for an Order to serve the tenant in a manner different to that required under the *Act*. The landlord had requested that Substitute Service take place at the tenant's school. The Arbitrator denied the landlord request for Substitute Service on the grounds that the landlord could not assure the Arbitrator that the school would pass on the documents to the tenant. The landlords Lawyer states that the tenant had appointed a Lawyer and the landlord was then able to serve the tenant at her Lawyers office with the original hearing documents.

In the Review Consideration decision the landlord was required to serve the tenant with a Notice of the review hearing within three days of receipt of the Review Consideration decision. The landlord's Lawyer states the tenant was again served to the tenant's Lawyer's office.

The tenant's previous Lawyer has written to state that they have no instruction from the tenant to represent the tenant and they had only been retained to represent the tenant at the original hearing. The tenants previous Lawyer states that the tenants file has been closed however they still made multiply attempts to contact the tenant but have failed to locate the tenant.

Consequently, it is my decision that the tenant has not been served with the hearing letters for this review hearing or the Review Consideration decision. To find in favour of an application, 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.

Conclusion

As the tenant has not been served with the hearing documents in accordance with the section 89 of the *Act*, I dismiss the landlord's application with leave to reapply.

The original decision remains suspended at this time

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: May 28, 2013

Residential Tenancy Branch