



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit, compensation for damage or loss under the Act, 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 landlord provided affirmed testimony that on July 12, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail to an address supplied by the tenant on June 30, 2013. This mail was not returned to the landlord.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

The landlord had served evidence, sent on October 2, 2013 to the tenant via express mail; the delivery date of this mail was unclear and a signature was not obtained. It was not clear that the tenant received the mail at least 5 days prior to the hearing, as required by the Rules of Procedure. Section 90 of the Act determines that mail is deemed served on the 5th day after mailing.

The evidence submission made to the Residential Tenancy Branch was completed on October 3, 2013; deemed four days prior to the hearing. At this point the landlord; given what I find were inadvertent evidence service errors, decided to withdraw their application and to reapply.

Therefore, pursuant to section 62(3) of the Act I find that the landlord has leave to reapply within the legislated time-frames.

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: October 10, 2013

Residential Tenancy Branch