



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on August 12, 2013, by the Landlord to obtain a Monetary Order for: damage to the unit, site or property; unpaid rent or utilities; to keep all of the security deposit; for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenants for this application.

Issue(s) to be Decided

Should this application be dismissed with or without leave to reapply?

Background and Evidence

At the outset of this proceeding the Landlord affirmed that he could not provide testimony pertaining to service of the hearing documents and evidence. He indicated that he recalls sending documents registered mail but could not provide details or tracking information. He requested that his application be dismissed with leave to reapply.

Analysis

Section 3.3 of the *Residential Tenancy Branch Rules of Procedure* stipulate that if the respondents do not attend the dispute resolution proceeding, the applicant must prove to the Arbitrator that **each** respondent was served as required under section 89 (1) of the Act. The person who served the documents must either attend the dispute resolution proceeding as a witness, or submit as evidence an affidavit of service, sworn by the person who served the documents, informing the Dispute Resolution Officer how the service was accomplished.

Based on the testimony I find that there is insufficient evidence that the application and hearing documents were served to the Tenants

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. In the absence of proof that the service of documents has been effected in accordance with the *Act*, I dismiss the Landlord's application with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, with leave to reapply.
This dismissal does not extend any timeframes set forth in the *Act*.

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: November 05, 2013

Residential Tenancy Branch

