



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OM'AX REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for compensation for damage to the unit, site or property, for unpaid rent, to retain the Tenant's security deposit, for loss of damage under the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said he filed the application on October 17, 2013 and he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on November 26, 2013. The Landlord said the delay in service was because he was in the hospital. Further the Landlord said the registered mail package was returned to him as the Tenant no longer resided at the address the Landlord used to service the Tenant.

Based on the evidence of the Landlord, I find that the Tenant was not served with the Landlord's hearing package as required by s. 89 of the Act. Service of the Hearing package is to be within 3 days of filing an application and in this situation the Hearing package was service 40 days after filing. As well the Tenant did not attend the hearing because she did not receive the Hearing package, this may have been due to the address the Landlord used for service was not the Tenant address. Consequently, I dismiss the Landlord's application due to incorrect service of the Application and Notice of Hearing (the "Hearing package").

Conclusion

The Landlord's application is 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: January 22, 2014

Residential Tenancy Branch