



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC

Introduction

The landlords apply for a monetary award for unpaid rent and for damages for the cost of cleaning and repair to the premises after the tenant left without notice.

The tenant did not attend the hearing. The landlord Ms. B. testified that the tenant did not provide a forwarding address is writing at the end of the tenancy, but that the landlord Mr. B. met the tenant's husband sometime after the tenancy and the husband told him he could send mail to the tenants in care of their mother at an address in Cedar.

The landlords sent this application and notice of hearing to the tenant at that address by registered mail but it was returned December 11, 2013 "unclaimed by recipient."

Section 89 of the *Residential Tenancy Act* sets out the requirements for service of a monetary application. It provides:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy **by registered mail to the address at which the person resides** or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy **by registered mail to a forwarding address provided by the tenant**;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

(my emphasis)

In this case the landlords chose service by registered mail but the mail was not sent either to the address at which the tenant resides, it was to the mother's address, or to a forwarding address provided by the tenant, it was provided by the tenant's husband.

In these circumstances the landlords' claim must be dismissed, with leave to re-apply. I specifically reserved the question of recovery of the \$100.00 filing fee for this application to the arbitrator who might hear the re-application.

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: February 17, 2014

Residential Tenancy Branch

