



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNSD, MNR, MND, MNDC

At the onset of the hearing the Tenants stated that on Friday February 28, 2014 they just received an amended application and evidence package from the Landlord but had not received the original application with the notice of hearing letter and are unprepared for the hearing. The Landlord stated that the original application dated January 14, 2014 and the notice of hearing was sent to the Tenants at the dispute address. This package was sent by registered mail on January 16, 2014. The Landlord states that prior to sending this package they were informed by the Tenants that they would be moved out of the dispute address unit on January 15, 2014 and in the written submissions the Landlord stated that the Tenants moved out of the unit on January 15, 2014. The Landlord states that they sent the amended application by registered mail to the address provided by the Tenants at a previous hearing.

The Act provides the following requirements for service of the Application

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*].

As the Landlord knew that the Tenants were not residing in the dispute address unit on the date that they sent the registered mail package containing the application and notice of hearing, I find that the Landlord has not accomplished service as required under the Act. Although the Landlord served the amended application and evidence package to the correct address, this material was not received by the Tenants until, at the most, three days prior to the hearing. This does not afford the Tenant sufficient opportunity to prepare for the hearing on the Landlord's application. As a result, I dismiss the application 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: March 03, 2014

Residential Tenancy Branch

