



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUSSEX REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing was convened by way of a conference call in response to an Application for Dispute Resolution (the "Application") made by the Landlord for a Monetary Order for: unpaid rent or utilities; damage to the unit, site or property; to keep all or part of the pet damage or security deposit and to recover the filing fee for the cost of this Application from the Tenants.

There was no appearance by the Tenants for the duration of the hearing. The Landlord appeared for the hearing and testified that she had tried to serve the Tenant in person seven days before the date of this hearing but the Tenants refused to accept the documents and did not provide a forwarding address in writing at the end of the tenancy.

Analysis

Section 59(3) of the Act provides that an applicant making an Application must serve a copy of the Application and the Notice of Hearing documents to the respondent within **three days** of receiving the documents from the Residential Tenancy Branch.

As a result, I found that the Landlord had not met the service requirements of the Act in relation to these documents and therefore, I was unable to hear the Application before me. However, the Landlord is at liberty to re-apply and serve documents in accordance with the Act.

However, I draw the attention of both parties to the service options available to an applicant as detailed under Section 89(1) of the Act and the deeming provisions under Section 90 of the Act. A party cannot refuse service by refusing or neglecting to pick up mail and this would also not form grounds for a review application.

Conclusion

For the above reasons, the Landlord's Application is dismissed with leave to re-apply.

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: May 05, 2014

Residential Tenancy Branch

