



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing was convened by way of 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 and for damage to the unit, site or property. The landlord also applied to recover the filing fee from the tenants for the cost of the application and to keep all or part of the security or pet damage deposit.

The Landlord appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing. There was no appearance for the tenants during the one hour duration of the hearing.

As a result, I turned my mind to the service of the Notice of Hearing documents to the tenants. The landlord testified that the copy of her Application and the Notice of Hearing documents (the “hearing package”) had been served to the tenants to the rental unit address by registered mail on **March 14, 2014**. The landlord provided the Canada Post tracking number during the hearing which was noted on the file. The landlord testified that the hearing package was unclaimed and returned to her and that the tenants had left the rental unit at some point in the first week of March, 2014.

I note from the file that the landlord was issued with the hearing package by the Residential Tenancy Branch on **March 5, 2014**.

Analysis & Conclusion

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

In this case, I find that the landlord failed to serve the documents to the tenants as required by the Act. In addition, the documents were sent to the rental unit address

where the tenants had already vacated at the time they were registered mail and would have likely not been able to receive the documents which the reason why they were likely not claimed by the tenants.

As a result, I dismiss the Landlord's Application but provide **leave to re-apply**.

The landlord was provided with information about the timelines for making an Application again, the service requirements of the Act and the dispute resolution process.

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: June 23, 2014

Residential Tenancy Branch

