



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was scheduled to hear a landlord's application to keep part of the security deposit. The tenants did not appear at the hearing. The landlord testified that she gave both hearing packages to the male tenant's mother at the forwarding address provided by the tenants. The landlord testified that she subsequently left the photographic evidence in the door at the forwarding address.

Where the respondent does not appear at a hearing, the applicant must be prepared to prove service of the hearing documents in a manner that complied with the Act. Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

Section 89 of the Act provides for ways a party must serve their Application for Dispute Resolution and Notice of Hearing upon the respondent. As provide under section 89(1), where a landlord makes a monetary claim against a tenant the landlord must serve their Application for Dispute Resolution upon each tenant by: (a) giving it the tenant personally; (b) sending it to the tenant by registered mail sent to the tenant's address of residence or forwarding address; or (c) giving it to the tenant in a manner as ordered by the Director.

By leaving the haring package with a third party I find the tenants were not served with the landlord's hearing package in a manner that complies with section 89(1) of the Act. As such, I dismiss this Application for Dispute Resolution with leave to reapply. I note that this does not extend any time limits established under the Act.

I have made no order with respect to returning the balance of the security deposit to the tenants as I did not hear evidence to make a determination as to whether the tenants extinguished their right to its return. Extinguishment of the right to return of the security deposit or the right to claim against the security deposit is provided under sections 24 and 36 of the Act.

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 03, 2014

Residential Tenancy Branch

