



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

At the start of the hearing, the landlord stated that a neighbor of the rental unit informed the landlord that the tenant had moved out on or about October 08, 2014. The landlord had made this application on October 06, 2014 and received a package from the Residential Tenancy Branch Office on October 09, 2014. The landlord served the tenant with the notice of hearing package, by registered mail on October 09, 2014.

However, since the landlord did not have a forwarding address for the tenant, she served it to the address of the dispute rental unit. The package was returned to the landlord and the tenant did not attend the hearing.

Since the tenant has moved out the landlord does not need an order of possession.

Issue to be Decided

Was the tenant served with the notice of hearing pursuant to Section 88?

Analysis

Section 88 of the *Residential Tenancy Act* addresses how to give or serve documents. The purpose of serving a notice of hearing under the Legislation is to notify the person being served of matters relating to arbitration. The tenant is entitled to have an opportunity to be heard at the hearing.

Based on the testimony of the landlord, I find that the tenant moved out without paying rent and without informing the landlord. Since the hearing package was sent to the tenant at the dispute rental address, after she moved out, I am not satisfied that the notice of hearing was served in accordance with section 88 of the *Act*.

Conclusion

The landlord's application is dismissed 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: November 19, 2014

Residential Tenancy Branch

