



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and unpaid rent?
Is the Landlord entitled to retain all or part of the security deposit?

Background and Evidence

The Landlord initially stated that on June 09, 2014 the Application for Dispute Resolution and the Notice of Hearing were sent to each Tenant, via registered mail. Upon being advised that this Application for Dispute Resolution was not filed until July 30, 2014, the Landlord stated that the documents mailed on June 09, 2014 must have been for a previous dispute resolution proceeding.

The Landlord stated that on July 30, 2014 this Application for Dispute Resolution and notice of this hearing were posted on the door of the residence where the Tenants were residing at that time.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by a landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served

with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

Based on the testimony of the Landlord and in the absence of evidence to the contrary, I find that neither Tenant was served with the Application for Dispute Resolution and the Notice of Hearing in accordance with section 89(1) of the *Act*.

As the Tenants have not been properly served with the Application for Dispute Resolution and the Notice of Hearing, I find I am unable to consider the Application for Dispute Resolution.

Conclusion

As I have made no determination regarding the merits of the Landlord's claim for a monetary Order, I dismiss the Application for Dispute Resolution, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution regarding these matters.

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: February 23, 2015

Residential Tenancy Branch

