



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord and the landlord's agent (collectively, the "landlord") attended and gave affirmed testimony. The tenant did not appear.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to written tenancy agreement the 2 year fixed term of tenancy began on April 01, 2014. Monthly rent of \$2,000.00 is due and payable in advance on the first day of each month, and a security deposit of \$1,000.00 was collected. The landlord issued a 10 day notice to end tenancy for unpaid rent dated June 11, 2014. The notice was served by posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown by when the tenant must vacate the unit is June 21, 2014, and the amount of rent shown as unpaid when due on June 01, 2014 is \$2,000.00. Subsequently, the tenant made no further payment toward rent, and she vacated the unit on June 15, 2014 without providing a forwarding address.

Thereafter, the landlord found new renters for the unit effective from September 01, 2014. Accordingly, further to recovery of the \$100.00 filing fee, in the application filed on September 11, 2014, the landlord seeks compensation reflecting unpaid rent for June (\$2,000.00), July (\$2,000.00) and August (\$2,000.00) [total: \$6,100.00].

In the absence of a forwarding address for the tenant, the landlord applied for substituted service of the hearing package. By way of Substituted Service Order ("Order") dated September 10, 2014, the Arbitrator instructed the landlord to serve the tenant at the tenant's e-mail address, in part as follows:

...and such service shall be deemed effective service on the Respondent after the Respondent has acknowledged receipt of the said documents by a reply to the e-mail delivering the documents.

Evidence does not include a copy of the e-mail sent by the landlord pursuant to the above Order. In any event the landlord testified that the tenant did not reply by e-mail.

Analysis

Section 71 of the Act addresses **Director's orders: delivery and service of documents**, in part as follows:

71(1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the hearing package was not served on the tenant in accordance with the Order. Specifically, while the landlord testified that the documents were sent by e-mail, there is no evidence of the tenant's having acknowledged receipt of them by way of an e-mail reply. In the result, the application for a monetary order reflecting compensation for unpaid rent and retention of the security deposit must be dismissed with leave to reapply. The application for recovery of the filing fee is hereby dismissed.

Conclusion

With the exception of the landlord's application for recovery of the filing fee which is dismissed, the landlord's application is hereby 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: April 08, 2015

Residential Tenancy Branch

