



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, for the cost of cleaning and garbage removal, for liquidated damages, for NSF charges and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

The landlord stated that on April 30, 2014, the tenant sent a letter to the landlord informing her that due to health reasons, the tenant would not be returning to the rental unit. The tenant moved out sometime in May 2015 without providing the landlord with a forwarding address.

The landlord made attempts to contact the tenant but was unsuccessful. The landlord also attempted to contact the tenant's daughter who had power of attorney to act on the tenant's behalf, but did not hear back.

The landlord did some research and found the address of the tenant's daughter. The landlord served this notice of hearing by registered mail to the daughter's address. The tenant did not attend the hearing.

Issue to be Decided

Was the tenant served with the notice of hearing pursuant to Section 88? If so is the landlord entitled to her monetary claim?

Analysis

The tenancy started on September 01, 2013 for a fixed term of one year with an end date of August 31, 2014. The monthly rent was \$820.00 due on the first of each month.

The tenant indicated in a letter dated April 30, 2014, to the landlord that he would not be returning to the rental unit.

The landlord was unable to contact the tenant and upon entry into the rental unit on June 25, 2014, the landlord found some of the tenant's belongings left behind. The landlord did not have a forwarding address for the tenant.

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 landlord served the tenant by mailing the notice of hearing package to the tenant's daughter's address. Accordingly I am not satisfied that the notice of hearing was served in accordance with section 88 of the *Act*.

The landlord is at liberty to apply for an order allowing her to serve the tenant by substitute service.

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: April 17, 2015

Residential Tenancy Branch