



# Dispute Resolution Services

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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 MNDC MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

Only the landlord attended and provided evidence that the Application for Dispute Resolution dated February 16, 2015 was served by registered mail. However, the postal service noted online that the recipient was 'not located at the address provided'.

Although this address was the address given to the landlord on the move-out report in March 2014, I find the tenant has not been legally served with the Application as he has had no notice of the hearing.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that the tenant owes rent and did damages to the property, that they were beyond reasonable wear and tear and the cost to cure the damage? Is the landlord entitled to recover the filing fee?

### **Background, Evidence and Analysis:**

Only the landlord attended but was unable to provide evidence that the tenant had had Notice of the Hearing. The landlord claims \$2,371.26 in unpaid rent and damages.

Although the tenant agreed to these charges on the move-out inspection report on March 5, 2014 and provided his forwarding address, I note this was a year ago and he may have moved. The evidence is that he has received no notice of the hearing. Policy Guideline 12, Item 4 ii states: *Where a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of hearing.* I find

the postal evidence is that the tenant was not residing at the address provided at the time of the registered mail delivery.

**Conclusion:**

I dismiss the Application of the landlord due to insufficient evidence of service of the Application/Notice of Hearing. I give the landlord leave to reapply within the legislated time limits.

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: May 05, 2015

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Residential Tenancy Branch

