



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, OLC, FF

Introduction

This hearing dealt with an application by the tenant for an order compelling the landlord to return double his security deposit.

Issue to be Decided

Does the landlord have notice of the tenant's claim?

Background and Evidence

The tenant provided a copy of a residential tenancy agreement showing that he entered into a tenancy with a corporation. The tenant chose to name the building manager as the sole respondent in his claim. He testified that he served the building manager with his application for dispute resolution and notice of hearing (the "Hearing Documents") by sending them via registered letter to the unit in the residential property from which the manager had conducted business. The documents were returned to the tenant and marked by Canada Post "Moved, address unknown". The tenant testified that upon receiving the returned Hearing Documents, he attended at the address to which he had sent the documents and discovered that another party lived in the unit and was not aware of the whereabouts of the building manager.

Analysis

It is a fundamental principle of natural justice that a defendant has the right to know the claim made against them. This is why the Residential Tenancy Act requires claimants to serve the respondent with the Hearing Documents. While I appreciate that the tenant mailed the Hearing documents to the last known address of the building manager, it is clear that the building manager did not receive the documents as he no longer works from that address.

I am unable to find that the building manager had notice of the claim against him and I therefore dismiss the claim with leave to reapply.

The tenant is reminded that although the building manager is a landlord for the purposes of the Act, it is open to the tenant to name as the respondent in a future application the corporation with whom he entered into the tenancy agreement.

Conclusion

The claim 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: May 05, 2015

Residential Tenancy Branch

