



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF, O

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for a Monetary Order for: damage to the rental suite; unpaid rent or utilities; to keep the Tenants’ security deposit; to recover the filing fee from the Tenants; and, for “Other” issues.

An agent for the Landlord appeared for the hearing and provided affirmed testimony and documentary evidence prior to the hearing. There was no appearance for the Tenants during the 23 minute duration of the hearing. Therefore, I turned my mind to the service of documents to the Tenants of this hearing.

The Landlord’s agent testified that the tenancy ended when the Tenants left the country abandoning their fixed term tenancy on November 10, 2014. The Landlord testified that the Tenants had been placed into the rental suite by a company hired by them to find tenants for the rental suite. The Landlord’s agent had contacted this company to see if the Tenants had provided a forwarding address in writing to them. However, no such address had been provided. The Landlord testified that the company informed them that they could use their address in order to serve the Tenants with documents for this hearing and that the company had signed and received the documents which were sent by registered mail. The Landlord’s agent confirmed that the company had still not heard back from the Tenants at the time of this hearing with regards to a forwarding address.

Based on the Landlord’s agent’s testimony, I was not satisfied that the Tenants had been served and put on notice of this hearing. I am also not satisfied that the company employed by the Landlord who originally found the Tenants are in a position to represent and deal with the Tenant’s security deposit. Neither was there anything before me that would have suggested that the Tenants had provided this authority. Therefore, I determined that the Landlord had not satisfactorily served the Tenants with notice of this hearing.

The Landlord's agent explained that at this moment in time the Landlord was only seeking to keep the Tenants' security deposit. I informed the Landlord's agent of Section 39 of the *Residential Tenancy Act* which states that a tenant has up to one year to provide the landlord with a forwarding address in writing. If the tenant fails to do this then the landlord can keep the tenant's security deposit indefinitely thereafter. However, if a tenant does provide their forwarding address personally or through their agent in writing to the Landlord within the year time period after the date the tenancy ended, then the landlord must deal with the tenant's security deposit in accordance with Section 38(1) of the *Residential Tenancy Act*.

Conclusion

As I am not satisfied that the Landlord has served the Tenants with notice of this hearing, I dismiss the Landlord's Application **with** leave to re-apply.

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: June 15, 2015

Residential Tenancy Branch

