



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2627 ENTERPRISES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNR MNSD MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on January 19, 2015, seeking to obtain a Monetary Order for: damage to the unit, site or property; for unpaid rent or Utilities; to keep all or part of the security and or pet deposit; for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; and to recover the cost of the filing fee from the Tenants for this application.

The hearing was conducted via teleconference and was attended by the Landlord. No one appeared on behalf of the respondent Tenants.

Issue(s) to be Decided

Has the Landlord proven that each Tenant has been sufficiently served notice of this proceeding?

Background and Evidence

At the outset of this proceeding the Landlord stated that based on information he received from the downstairs tenants, the Tenants vacated the rental unit on approximately January 15, 2015.

The Landlord testified that he served each Tenant with copies of his application for Dispute and the Notice of Hearing documents via registered mail on January 20, 2015. The Landlord submitted evidence that each registered mail package was addressed to the rental unit where the Tenants no longer resided, as they had vacated by January 15, 2015.

The Landlord stated that on January 23, 2015, he was informed that the Tenants gave the keys to the rental unit and \$500.00 to go towards the money they owed to him, to a tenant who occupies a house adjacent to this rental unit.

Analysis

Section 89(1) of the Act stipulates that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail **to the address at which the person resides** or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

[Reproduced as written with my emphasis added with bold text]

In the absence of the respondent Tenants, the burden of proof of service of the hearing documents lies with the applicant Landlord. The Landlord testified and submitted documentary evidence which indicated the registered mail packages were sent to an address where the Tenants no longer resided; as they had moved out 5 days prior to the date when the registered mail was sent. Therefore, I find there to be insufficient evidence to prove the Tenants were served with proper Notice of this proceeding, in accordance with section 89 of the Act.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with section 89 of the Act, I dismiss the Landlord's application, with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, with leave to reapply.

This dismissal does not extend any time limits set forth in the *Residential Tenancy Act*.

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: July 07, 2015

Residential Tenancy Branch

