



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, FF, SS

Introduction

This hearing was scheduled to deal with the landlord's application for a Monetary Order for unpaid rent and utilities, late fee and NSF fee, liquidated damages and cleaning costs; and, authorization to retain the security deposit. The tenants did not appear at the hearing.

The landlord submitted that the hearing packages and evidence were sent to each tenant via registered mail. The landlord orally provided registered mail tracking numbers as proof of service.

I heard that the address used for sending the registered mail packages corresponds to the address of the male tenant's employer, as listed on the tenant's application for tenancy, since the tenants did not provide a forwarding address. According to the landlord appearing at the hearing, her predecessor telephoned the employer and confirmed that the tenant was still working for that employer.

A search of the tracking numbers showed that the registered mail packages were sent on March 23, 2015 and delivered on March 26, 2015 as evidence by the name and signature of a person that does not correspond to either of the tenants named in this Application.

Residential Tenancy Policy Guideline 12: *Service Provisions* provides policy statements with respect to service requirements. It provides that where the respondent does not appear at a hearing, the applicant must be prepared to prove service. Proof of service by registered mail should include the original receipt given by the post office and should include the date of service, the address of service; and, that the address of service meets the requirements provided under the Act. Section 89(1) of the Act provides that where a landlord serves a tenant with an Application for Dispute Resolution by registered mail the landlord must use the tenant's forwarding address; or, the tenant's address of residence at the time of mailing. Alternatively, a landlord may serve the

tenant with an Application for Dispute Resolution personally or as ordered by the Director.

In this case, the landlord used registered mail to send the hearing documents but did not use the tenant's forwarding address or address of residence. Nor, was I provided evidence to demonstrate the registered mail packages were otherwise given to the tenants after they were delivered to the male tenant's employer. Therefore, I must conclude that the tenants were not served in accordance with the Act.

In filing this Application, the landlord had indicated the dispute code that relates to a request for a substituted service order the landlord did not follow the substituted service application procedure.

In light of the above, I dismiss this Application with leave to reapply. The landlord remains at liberty to make another Application against the tenants within the statutory time limit for doing so.

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: August 27, 2015

Residential Tenancy Branch

