



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNSD, MNDC, FF

This hearing was convened to address a claim by the landlord for an order of possession, a monetary order and an order authorizing her to retain the security deposit. The landlord participated in the conference call hearing but the tenants did not.

The landlord filed her application for dispute resolution with the Residential Tenancy Branch on October 28, 2015 and on the same date was provided with copies of her application and the notice of hearing (the "Hearing Documents") to serve on each of the tenants. When I asked the landlord how she had served the Hearing Documents on the tenants, she testified that she had served them via registered letter sent on August 3. The landlord entered into evidence several copies of a registered letter postmarked in August which had been returned to her. When I explained to the landlord that the August letter could not have contained the Hearing Documents as those documents did not exist on that date, she claimed that she had sent the Hearing Documents on a different date, but could not recall that date and did not have a Canada Post tracking number for that delivery. The landlord testified that several days before the hearing, she verbally told the tenants that there was a hearing taking place on this date.

The principles of administrative justice demand that a respondent know the claim against them and have opportunity to be heard by the adjudicator determining the claim. The landlord was unable to prove to my satisfaction that she had sent the Hearing Documents via registered letter and although she may have told them verbally that there was a hearing taking place, the tenants did not have a copy of the claim made against them and did not have the telephone number or conference call access code which would have been required in order to participate in the hearing.

I find that the landlord failed to meet the burden of proving that tenants had notice of the claim against them and the full information about the hearing to allow them opportunity to be heard. I therefore dismiss the claim 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: December 30, 2015

Residential Tenancy Branch

