



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The Landlord stated that on October 23, 2015 he personally served the Application for Dispute Resolution and Notice of Hearing to a male that he believes is either the Tenant's father or his father-in-law.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to a tenant is to notify the tenant that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
 - (c) by sending a copy by registered mail to the address at which the person resides;
 - (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
- or

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord submitted no evidence to show that the Tenant was personally served with the Application for Dispute Resolution or Notice of Hearing and I therefore find that these documents were not served in accordance with section 89(1)(a) of the *Act*.

The Landlord submitted no evidence that the Application for Dispute Resolution or Notice of Hearing was mailed to the Tenant and I therefore find that these documents were not served in accordance with sections 89(1)(c) or 89(1)(d) of the *Act*.

There is no evidence that the director authorized the Landlord to serve the Application or Notice of Hearing to the Tenant in an alternate manner and I therefore find that these documents were not served in accordance with section 89(1)(e) the *Act*

The Landlord submitted no evidence to cause me to conclude that the Tenant received the Application for Dispute Resolution or Notice of Hearing and I therefore cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As the Application for Dispute Resolution or Notice of Hearing has not been served to the Tenant in accordance with section 89(1) of the *Act*, I am unable to proceed with the hearing in the absence of the Tenant. The Application for Dispute Resolution is dismissed with leave to reapply.

Conclusion

The Application for Dispute Resolution is dismissed with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution.

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: February 10, 2016

Residential Tenancy Branch

