



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, RPP, FF

Introduction

On March 1, 2016 the tenants applied requesting compensation in the sum of \$2,900.00; as double the deposits paid; an Order the landlord return the tenants' personal property and to recover the filing fee cost from the landlord.

The tenants provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord on March 3, 2016. A Canada Post tracking number, receipt and the returned envelope were provided as evidence of service. The returned envelope was marked by Canada Post as "unclaimed/moved."

The tenants said they thought the landlord was moving onto the rental property and they used that address for service. The tenants stated that were not convinced the landlord was living on the property, at the address used for served. The tenants have not been given a service address for the landlord.

Section 89(1) of the Act Provides:

Special rules for certain documents

89 (1) *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].

As the tenants have attempted service to the landlord to an address that is not confirmed as the address where the landlord resides or carries out business I determined that service of the hearing documents has not succeeded.

Therefore, in the absence of proof of service to the landlord in accordance with the Act, I find that the application is dismissed with leave to reapply, within the legislated time limit.

Conclusion

The application is dismissed with leave to reapply within the legislated time limit.

This decision is final and binding and 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: April 21, 2016

Residential Tenancy Branch