



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution, seeking an order of possession for unpaid rent or utilities and a monetary order for unpaid rent or utilities. Originally, the landlord applied through the Direct Request Process under the *Residential Tenancy Act* (the "Act") which was adjourned to a participatory hearing as the landlord failed to serve both parties separately by registered mail as required.

The landlord attended the reconvened teleconference hearing and confirmed under oath that the landlord again served both tenants in one envelope and not separately as required by section 89 of the *Act* and section 3.1 of the Rules of Procedure. As the tenants did not attend the hearing and the online registered mail website did not indicate which of the two tenants signed for the registered mail package, I am unable to determine which of the two tenants were served.

Preliminary and Procedural Matter

As the landlord has served both tenants in the same registered mail package, I find that each person has not been individually served, as required by section 89 of the *Act* and section 3.1 of the Rules of Procedure.

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing without having received the Notice of Hearing and Application. Furthermore, as I am unable to determine which of the two tenants were served, I am unable to proceed with the hearing against one of the two named respondents. Therefore, **I dismiss** the landlord's application **with leave to reapply** as I am not satisfied the tenants have been sufficiently served with the Notice of Hearing and Application. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, 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 12, 2016

Residential Tenancy Branch