



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid and loss of rent; and, authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as proof of service. The landlord testified that the registered mail was sent to the tenant on April 1, 2016 and the tenant was still residing at the property until mid-April 2016; however, the registered mail was returned.

A search of the registered mail tracking number shows that Canada Post went to deliver the mail but that there was error in the address provided by the sender and the registered mail was returned to sender. Canada Post did not attempt delivery upon the tenant or leave a notice card for the tenant to retrieve the registered mail.

While section 90 of the Act deems a person to have received mail five days after mailing I must be satisfied that the mail sent to the recipient was addressed using the address at which the person resides. Based upon the evidence before me, I find I am unsatisfied that the envelope addressed to the tenant was correct and that the tenant had an opportunity to receive the hearing documents. Since the purpose of serving hearing documents is to put the respondent on notice as to the claims being made against them in keeping with the principles of natural justice and the tenant has not had the opportunity to receive the hearing documents due to an apparent error in sending the hearing documents to the tenant I find it appropriate in the circumstances to dismiss this application 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: May 05, 2016

Residential Tenancy Branch