



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Commercial Solutions
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for a monetary order for unpaid rent or utilities and for damage to the unit, site or property, and to recover the filing fee from the tenant for the cost of the application.

The owner of the rental property attended the hearing as agent for the property manager and property management company that filed the application for dispute resolution. However, the line remained open while the phone system was monitored for 10 minutes and no one for the tenant attended the call. The owner testified that he was provided with a document, Form 21, Confirmation of Service of Monetary Order for Enforcement in Provincial Court which states that the tenant was served on April 15, 2016 personally by the property manager. However, a copy of that document has not been provided for this hearing. The owner attempted to have the property manager join the conference call hearing to testify as to service of the Landlord's Application for Dispute Resolution, evidentiary material and notice of this hearing, but was not successful in reaching the property manager during the hearing, and no one for the property manager or the property management company attended the hearing.

The Form 21, Confirmation of Service of Monetary Order for Enforcement in Provincial Court is a document prepared once a monetary order has been ordered in a hearing and does not constitute service of the hearing package whether or not it has been signed by the tenant.

The Residential Tenancy Branch Policy Guidelines are available to the public on the Residential Tenancy Branch website, which provide that:

Where the respondent does not appear at a Dispute Resolution hearing, the applicant must be prepared to prove service under oath. The person who actually served the documents must either:

- be available as a witness in the hearing to prove service, or
- provide a signed statement with the details of how the documents were served.

Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply. Adjournments to prove service are given only in unusual circumstances.

In the circumstances, I am not satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. I am satisfied that the owner ought to have an opportunity to advance his claim either through the property manager or the property management company or himself or by another property management company or property manager. Therefore, I dismiss the landlord's application with leave to reapply.

I have made no findings of fact or law with respect to the merits of the claim.

Conclusion

For the reasons set out above, the landlords' application is hereby dismissed 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: September 21, 2016

Residential Tenancy Branch

