



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND

Introduction

The landlords apply for a monetary award for damage to the rental unit.

Neither tenant attended for the hearing of this matter within fifty minutes after its scheduled start time. They have not filed any material in opposition to the application. The landlords have had no communication with either tenant since sending the application for dispute resolution and notice of hearing.

In order to proceed in the absence of the tenants the landlords are required to show that the tenants have been served with the application and notice of hearing.

Ms. D. testifies that sometime after the end of the tenancy in August 2015, the tenants provided a forwarding address in writing. The landlords then returned the tenants' full security deposit to them at that address. It is the same address used by the landlords in completing their application for dispute resolution.

The landlords' application was made in May 2016 and on May 16, 2016 the landlords sent the tenants a single package, addressed to both tenants at the forwarding address. The package was not sent by registered mail but rather, by another service offered by Canada Post called Xpresspost.

Xpresspost provides a tracking number to show delivery of the package (tracking number shown on cover page of this decision). It also offers a service, at an extra cost, whereby the name and signature of the recipient is recorded and can be checked online.

Ms. D. testifies she used the signatory option.

Canada Post records show that the name and signature of the recipient were not taken or recorded. The Canada Post record shows that though the package was delivered to the address on May 18, the signature option had not been requested. There is no record or indication who received the package.

Section 89 of the *Residential Tenancy Act* provides that an application for dispute resolution involving a monetary award can be served by registered mail to the address at which the tenant resides.

Residential Tenancy Policy Guideline 12, "Service Provisions" provides, "Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available."

The address the tenants provided was given many months ago, there is no guarantee that they still reside there. Registered mail or Xpresspost signed for by one of the tenants would be persuasive evidence that they do.

In the absence of such evidence, I find that the landlords have not shown that the tenants have been served in accordance with s. 89.

Their application must be dismissed, with leave to re-apply.

The landlords claim recovery of the \$100.00 filing fee. I make no order in that regard and specifically defer that decision to the discretion of any future arbitrator hearing this matter on re-application should the landlords seek it.

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: November 08, 2016

Residential Tenancy Branch