



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD

Introduction

This hearing was scheduled in response to the tenants' Application for Dispute Resolution, in which the tenant has requested compensation for damage or loss under the Act and return of the security deposit.

The tenant provided affirmed testimony that on May 27, 2016 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail. A Canada Post tracking number and receipt was provided as evidence of service. The tenant submitted the returned mail that was marked by Canada Post as unclaimed.

A refusal to claim registered mail does not allow a party to avoid service. Therefore, I find that these documents are deemed to have been served on the fifth day after mailing, in accordance with section 89 and 90 and 90 of the Act.

The landlord/respondent did not appear at the hearing.

Preliminary Matters

It was noted that the dispute address was identical to the respondent/landlords' address. When questioned, the tenant/applicant confirmed that the rental was a unit where the applicant and respondent both lived. The respondent is the home owner and the kitchen and bathroom were shared with the applicant.

Section 4 of the Act sets out what the Act does not apply to, including subsection c):

(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation.

Therefore, as the applicant rented accommodation from the owner who also lived in the unit where the parties shared a kitchen and bathroom, I determined that jurisdiction must be declined. The Act does not apply to this type of accommodation.

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: November 17, 2016

Residential Tenancy Branch