



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPM, SS

Introduction and Conclusion

This hearing convened as a result of a Landlords' Application for Dispute Resolution, filed on May 24, 2016, wherein the Landlord sought an Order of Possession based on a Mutual Agreement to end Tenancy, a monetary order for unpaid rent and compensation for monetary losses or other money owed, authority to retain the security deposit, an Order for substituted service and recovery of the filing fee.

Only the Landlords appeared at the hearing. D.P. testified on behalf of the Landlords and confirmed that the Tenant had vacated the rental such that an Order of Possession was no longer required.

D.P. further confirmed that they were unable to serve the Tenant with Notice of the Hearing or the Landlords' Application for Dispute Resolution as required by the *Residential Tenancy Act*. He stated that he did not have a forwarding address from the Tenant nor did he have any information as to where the Tenant moved to after vacating the rental unit. He indicated that he attempted to serve the Tenant at the Tenant's parents' residence, and the hearing package was returned.

Although on their application the Landlords applied for an Order pursuant to section 71 for authority to serve the Tenant in another way (commonly referred to as "substitutional service"), they did not make any submissions as to their request in this regard as they did not have any evidence or information as to possible means to serve the Tenant, such as email, his place of work, etc.

As the Tenant was not served with the hearing package, I am unable to proceed with the Landlords' application. One of the Principles of Natural Justice is that a party to a dispute is entitled to notice of a hearing and the right to be heard. In this case, as the Landlords were unable to serve the Tenant, I am unable to find that the Tenant was aware of the hearing and therefore afforded an opportunity to be heard.

I dismiss the Landlords' 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: November 23, 2016

Residential Tenancy Branch