



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes

MNDC MNR MNSD FF

Introduction

This matter was set for a conference call hearing at 1:30 p.m. on this date. The applicant landlord applied for a Monetary Order and to retain the security deposit as set off. Only the landlord appeared in this matter. The hearing received approximately 60 pages of evidence from the landlord. No evidence from the tenant(s). The landlord applicant provided that they served the tenants with their notice of hearing and application and half of their evidence by registered mail to an address the landlord claims was provided by one of the tenants on vacating. The landlord provided a handwritten address purportedly signed by the tenant and witnessed by an agent of the landlord. The landlord believes the address was incorrect as the mail was deemed undeliverable. The landlord also claims to have sent the notice of hearing documents and half of their evidence to each of the tenants by e-mail attachment together with a demand for payment amounting to the landlord's monetary claims. The emails also contained veiled threats of court action or seizure, judgments against assets, affecting their credit history or employment. The landlord provided terse e-mail response from the tenant which the landlord provided toward confirmation the tenant had received the e-mail; however, no confirmation was provided that the tenant received the attachments containing hearing documents.

The landlord subsequently advised they wished to withdraw their application with a view to refilling at a later date.

Analysis and Conclusion

I am not convinced by the evidence provided that the tenant has been duly or adequately apprised of the claim against them, but rather I find the tenant responded to the landlord's demand for payments. If I were to accept the landlord's evidence I am further not convinced the landlord provided the tenant with all of the evidence provided to this hearing.

I am further unable to reconcile the landlord's evidence respecting the tenant's mailing address, in part as the landlord's image evidence for the returned registered mail obscures the mailing address to where it was sent.

As the tenant did not appear in the hearing and there is insufficient evidence they have been apprised of the landlord's claim I find there is no prejudice to the tenant in this matter in allowing the landlord's request to withdraw this application. As a result, I allow the landlord's request to withdraw their application. The application is **withdrawn**, *with leave to reapply*.

It must be noted the landlord was apprised that if they are reapplying it is available to them to request substituted service.

It must further be noted that leave to reapply is not an extension of any applicable limitation period.

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: December 06, 2016

Residential Tenancy Branch