



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR FF

Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution, seeking a monetary order for damages to the unit, site or property, for unpaid rent or utilities, and to recover the cost of the filing fee.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application for Dispute Resolution (the "Application") and documentary evidence were considered. The tenant provided affirmed testimony that the Notice of Hearing, Application and documentary evidence were served on the tenant by registered mail on September 8, 2016. The landlord provided a registered mail tracking number in evidence and which according to the online registered mail tracking information confirms that the registered mail package was returned to sender as "unclaimed". The landlord was asked how he obtained the Ontario mailing address for the respondent tenant and he provided a name of what he described as a private investigation company. The landlord failed; however, to submit any documentary evidence to confirm that he hired a private investigation company to locate the tenant and as a result, I had no documentary evidence before me to support the landlord's testimony that the tenant was confirmed at that mailing address by the private investigation company.

Residential Tenancy Branch Policy Guideline #12 Service Provisions requires that where a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant. I find the landlord has failed to provide sufficient documentary evidence to support what the address was that was confirmed by the private investigator company. Therefore, I find the tenant has not been served in accordance with Policy Guideline #12 as the landlord failed to provide documentary evidence from the private investigation company confirming a specific address in Ontario for the tenant.

Both parties have the right to a fair hearing. The tenant would not be aware of the hearing without having received the Notice of Hearing and Application. Therefore, I

dismiss the landlord's application **with leave to reapply**. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, 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: March 2, 2017

Residential Tenancy Branch