



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNDC FF

Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The landlord testified that she served the tenant via registered mail but could not locate the tracking number even though she was provided a full 30 minutes to locate the tracking number. In addition, the landlord testified that she "probably" served on the ninth of December which I don't find to be compelling testimony. In addition, the tenant did not serve any documentary evidence so that did not assist with supporting that the tenant was served and decided not to attend the hearing. While the tenant claims she could produce a screenshot that the tenant responded to her claim; that evidence should have been and could have been provided in evidence in support of her service of the tenant which it was not.

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 document and Application. Based on the landlord's affirmed testimony which used the word "probably" which I don't find compelling, I am not satisfied that the tenant has been served with the Notice of Hearing and Application in a method provided for under the *Act*. Therefore, **I dismiss** the landlord's application **with leave to reapply** due to a service issue. 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: June 6, 2017

Residential Tenancy Branch