



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

On September 15, 2017, the Landlord submitted an Application for Dispute Resolution for a monetary order for unpaid rent or utilities and to recover the cost of the filing fee.

The Landlord and Tenant Mr. JS attended the hearing. The Tenant named Mr. FP did not attend the hearing. The Tenants were co-tenants sharing a self-contained rental unit under a single tenancy agreement.

The Landlord testified that her claim is against the Tenant Mr. FP and not Mr. JS. The Landlord requested that Mr. J.S. be removed from her Application as she does not wish to pursue a monetary claim against him. The Landlord's Application is amended accordingly.

The Landlord testified that she was not able to obtain a forwarding address from Mr. FP. The Landlord testified that sometime around September 15, 2017, she sent the Notice of Hearing package using registered mail to an address that was provided to her by an individual named Kevin. The Landlord testified that Kevin informed her that Mr. FP was living at his residence. The Landlord testified that she sent the Notice of Hearing to the address provided by Kevin. The Landlord did not provide a registered mail receipt or tracking number in support of her testimony. The Landlord suggested at the hearing that I could call Mr. FP's mother and verify his address.

In the circumstances, I find that it is not reasonable to conclude that the Tenant Mr. FP received the Notice of Hearing package. A fundamental principle of natural justice and administrative law is that a person has the right to be notified about a proceeding against them and must have an opportunity to respond.

The address to which the Landlord sent the Notice of Hearing was not an address that was provided to the Landlord by the Tenant. The person who provided the address is an unknown person. In the circumstances, I find that it is not reasonable to conclude that the Tenant resides at the address where the hearing documents were sent, and consequently I find that the deemed received provisions for serving documents using registered mail under section 90 of the Act do not apply in this case.

I find that the Tenant, Mr. FP has not been properly served with the Notice of Hearing. The Landlord's application is dismissed in its entirety 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: April 05, 2018

Residential Tenancy Branch