



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEW YALE PLAZA DEV. CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent and to retain the security deposit in satisfaction of his claim.

The tenants did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

The landlord testified that the tenant moved out on September 26, 2017 without providing him with a forwarding address. The landlord recalled that the female tenant told him that she was moving to her mother's home. The tenant's mother had been the landlord's tenant in the past and had provided the landlord with her forwarding address when she moved out of the landlord's rental property.

The landlord mailed the notice of hearing package by regular mail, to the address of the tenant's mother. Since the tenants did not attend the hearing, it is possible that they were not served with the notice of hearing package.

Issues to be decided

Was the tenant properly served with the notice of hearing and the landlord's application? If so is the landlord entitled to a monetary order?

Analysis

Section 88 of the *Residential Tenancy Act* addresses how to give or serve documents. The purpose of serving a notice of hearing under the Legislation is to notify the person being served of matters relating to arbitration. The tenants are entitled to have an opportunity to be heard at the hearing.

Based on the testimony of the landlord, I find that the tenants were not served with the notice of hearing pursuant to Section 88 and therefore were not given an opportunity to respond to the landlord's claim against them. Accordingly, I must dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application is dismissed 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: May 09, 2018

Residential Tenancy Branch