



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RIVERWALK VILLAS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, MNRL-S, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for a Monetary Order for damages or compensation, a Monetary Order for unpaid rent and for the recovery of the filing fee paid for this application.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenants during the approximately 21 minutes that the teleconference line remained open. As the Tenants were not present, service of the Notice of Dispute Resolution Proceeding (the “Notice of Hearing”) was addressed.

The Landlord provided affirmed testimony that the Notice of Hearing along with the Landlord’s evidence package was sent to both Tenants by registered mail. The Landlord testified that the registered mail packages were unclaimed by the Tenants.

The Landlord stated that the address where the registered mail was sent was confirmed with the Tenants in April 2018. The Landlord had provided a reference for the Tenants at a potential new rental unit, so the Landlord confirmed with the Tenants that this was their forwarding address. The Landlord testified that as the Tenants did not provide a forwarding address in writing, this was accepted as their forwarding address.

However, upon review of the registered mail tracking information for both packages that the Landlord submitted in evidence, I find that the packages were not unclaimed by the Tenants, but were returned due to the recipient not being at the address the packages were sent to. Tracking information for registered mail sent to both Tenants confirmed the packages as returned due to the recipient not living at that address.

In accordance with the *Residential Tenancy Branch Rules of Procedure*, a party has a right to know the claims against them, to submit evidence and attend the hearing. As the Tenants were not served with the Notice of Hearing documents at the correct address, I am not able to confirm that they were aware of the claims against them or aware of the hearing.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for damages or compensation?

Is the Landlord entitled to a Monetary Order for unpaid rent?

Should the Landlord be awarded the recovery of the filing fee paid for this Application for Dispute Resolution?

Analysis

I am not satisfied that the Tenants were duly served with the Notice of Dispute Resolution Proceeding package in accordance with the *Act*, and I therefore dismiss this Application for Dispute Resolution with leave to reapply.

Conclusion

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

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: July 12, 2018

Residential Tenancy Branch