



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and for a monetary order for unpaid rent, and the cost of repairs. The landlord also applied to retain the security and recover the filing fee.

The landlord testified that the tenants were incarcerated and that she did not serve them with the notice of hearing because she was unable to get information regarding their whereabouts. The landlord posted the notice of hearing on the front door. The tenants did not attend the hearing.

Analysis

Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

The purpose of serving a notice of hearing to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

In this case, the landlord made application on May 23, 2019 and did not serve the tenants with a notice of hearing package or her evidence package. Since the tenants were not provided with an opportunity for rebuttal, I 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: July 04, 2019

Residential Tenancy Branch