



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ideal Holding Inc., Ideal Holding Inc. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- authority to keep the tenant's security deposit to use against a monetary award; and
- to recover the cost of the filing fee.

The landlord's agents attended; the tenant did not attend the telephone conference call hearing. As a result, service of the landlord's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

In response to my inquiry, the landlord's agents said they sent their application package by registered mail on November 18, 2020 to the rental unit address. The landlord confirmed that the tenancy ended on September 30, 2020, and as the tenant did not provide a forwarding address, they chose to send the package to the rental unit.

The landlord further submitted that they also provided their application for dispute resolution and notice of hearing package to the tenant via email.

Analysis and Conclusion

Section 59(3) of the Act requires 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.

Section 89(1) of the Act requires that an application for dispute resolution, which includes the notice of hearing, must be given by handing the documents to the person or by registered mail to the address at which the person resides, or by registered mail to a forwarding address provided by the tenant.

In the case before me, the landlord confirmed that the address they used to send the application package to the tenant was to an address she no longer lived. The landlord also did not have a forwarding address for the tenant.

I therefore find the landlord submitted insufficient evidence that they served the tenant their application for dispute resolution and notice of this hearing in a manner required by the Act.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the landlord's application, **with leave to reapply**.

As I have not considered the merits of the landlord's application, I dismiss their request to recover the cost of the filing fee, without leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

I have not ordered the landlord to return the tenant's security deposit, as she has failed to provide a written forwarding address to the landlord.

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: March 1, 2021

Residential Tenancy Branch