



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BLUESKY PROPERTIES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the Residential Tenancy Act (the "Act"), made on November 18, 2020. The Landlord applied for a monetary order for unpaid rent, permission to retain the security deposit and to recover the filing fee paid for the application. The matter was set for a conference call.

Three Agents for the Landlord (the "Landlord") attended the hearing, and each were affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the Act and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution, and Notice of Hearing had been sent to the Tenant by Canada Post registered mail on November 18, 2020, a Canada Post tracking number was not provided as evidence of service.

After this proceedings concluded, it was noted by this Arbitrator that the Notice of Hearing documents for this hearing had been created on November 26, 2020, eight days after the Landlord testified that they had served the Notice of Dispute Resolution Hearing documentation to the Tenant by registered mail.

As the Notice of Dispute Resolution Hearing documentation had not been created until November 26, 2020, I find that it would have been impossible for the Landlord to have served Notice of Dispute Resolution Hearing documentation to the Tenant on November 18, 2020, as they claimed in these proceedings.

Consequently, I find that the Tenant had not been duly served with the Notice of Hearing in accordance with the Act, and I dismiss the Landlord's application with leave to reapply.

Conclusion

I dismiss the Landlord's application 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: March 11, 2021

Residential Tenancy Branch