



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNDS, MNDC, FF O

Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit; unpaid rent; damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit. The tenants did not appear at the hearing. Although the landlord indicated he is seeking an Order of Possession, the tenants have vacated the rental unit, but have not provided the landlord with a forwarding address.

The landlord testified and submitted documentary evidence to show that the landlord attempted to serve the tenants by sending one registered mail envelope to both tenants at a business address. The registered mail was returned by Canada Post with the notation "address incomplete".

The landlord testified that on August 8, 2011 he dropped off the hearing documents in a mail slot, since the business was closed, at the same business address used for the registered mail. Later on August 8, 2011 the landlord also gave the franchisee of the business a Notice of Dispute Resolution to give to the tenants. The male tenant phoned the landlord later that day and the parties discussed the condition of the rental unit; however, despite the landlord's requests for a forwarding address the tenant will not provide one.

Where a respondent does not appear at the hearing, it is upon the applicant to prove service occurred in a manner that complies with the Act. Section 89(1) of the Act provides for ways an Application for Dispute Resolution involving a monetary claim must be served on another party. If the applicant decides to use registered mail the registered mail must be sent to either the tenant's address at which the tenant resides or the forwarding address provided by the tenant. If the applicant decides to serve the respondent via personal service, the respondent must be served and it is insufficient to leave documents with another person. In addition, whether service is by registered mail or personal delivery, the Act requires that each respondent be served with the hearing package; thus, it is insufficient to use one package for two respondents.

Based on the evidence before me, I find I am not satisfied that the registered mail was sent to an address that meets the requirements of section 89(1) of the Act. Therefore, I dismiss this 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: August 16, 2011.

Residential Tenancy Branch