



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution, seeking an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, for authority to keep all or part of the security deposit, and to recover the filing fee.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The landlord testified that the Notice was mailed via registered mail to the rental unit on January 16, 2013. A tracking number was provided as evidence. The landlord testified that the tenants were not living at the rental unit on the date the registered mail package was mailed, as they vacated the rental unit on December 28, 2012. The landlord stated that the tenants advised her that they would be providing a forwarding address slip to the post office but did not provide the landlord with their forwarding address. The landlord submitted documentary evidence that indicated that the registered mail package was "redirected to recipient's new address" but there is no indication as to that new address or the names of the recipients and whether the tenants were residing at the new address at the time the mail was redirected. The landlord testified that the registered mail package was not successfully delivered or received by the tenants. According to the tracking information submitted in evidence, the registered mail package was ultimately returned to and signed for by the landlord on February 24, 2013.

In addition, the landlord stated that she mailed the Notice to both tenants in the same registered mail package and did not serve the tenants individually with their own packages.

Preliminary and Procedural Matters

As the landlord has served both tenants in the same registered mail package, I find that each person has not been individually served, as required by section 89(1) of the *Act* and section 3.1 of the Rules of Procedure for the purposes of a monetary claim.

Furthermore, Residential Tenancy Branch Policy Guideline #12 Service Provisions requires that where a landlord is serving tenants by registered mail, the address for service must be where the tenants reside at the time of mailing, or the forwarding address provided by the tenants. The landlord stated that the tenants are no longer living in the rental unit as they vacated the rental unit on December 28, 2012 and did not provide a forwarding address. Therefore, **I find** the tenants have not been served in accordance with Policy Guideline #12 as the tenants vacated the rental unit before the registered mail package was mailed to the tenants.

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing. Therefore, **I dismiss** the landlord's application **with leave to reapply** as I am not satisfied the tenants have been sufficiently served with the Notice of a Dispute Resolution Hearing. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The landlord's application is dismissed with leave to reapply.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: April 05, 2013

Residential Tenancy Branch

