



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by conference call in response to the Landlord's Application for Dispute Resolution (the "Application") for a Monetary Order for; unpaid rent; to keep the Tenant's security deposit; and to recover the filing fee from the Tenant.

Preliminary Issues

The Landlord appeared for the hearing and provided affirmed testimony. However, there was no appearance for the Tenant during the 15 minute hearing. Therefore, I turned my mind to the service of documents by the Landlord for this hearing.

The Landlord's agent testified that the Tenant had abandoned the rental unit leaving a large amount of personal property behind and the Tenant is not answering the Landlord's phone calls.

The Landlord testified that after the Tenant abandoned the rental unit he served a copy of the Application and the Hearing Package by posting it to the rental unit door on April 12, 2017. However, the Tenant had not returned to the rental unit to receive them.

The Landlord testified that he had also sent the documents to the Tenant's work address in an effort to serve him there but they had been returned back to him as being unclaimed. The Landlord submitted that the Tenant must have been relieved of his duties from that place of work. The Landlord testified that the Tenant had not provided him with a forwarding address and that he has been unable to locate the Tenant.

When a party makes an Application, pursuant to Section 59(3) of the *Residential Tenancy Act* (the "Act"), they must serve the respondent with a copy of the Application and put the party on notice of the hearing and provide them with any evidence the applicant relies on to support their case. This gives the respondent an opportunity to appear for the hearing and know of the case against them.

In this case, I am not satisfied that the Tenant has been served with the Landlord's Application and that the Tenant had been put on notice of this hearing. Firstly, Section 89(1) of the Act prohibits the service of a monetary claim by posting the documents to the rental unit door. In any case, there is not sufficient evidence before me that the Tenant obtained these documents that would allow me to determine sufficient service as the Tenant has not returned to the rental unit since abandoning it.

Secondly, the Act does not allow a party to be served at a place of work unless a party is able to obtain a substituted service order from the Residential Tenancy Branch after demonstrating the respondent is able to receive documents to their place of work. In this case, the documents served to the Tenant at his place of work were returned as unclaimed. Therefore, I am only able to conclude that the Tenant has not been properly served with the Landlord's Application.

As a result, I am unable to determine and make findings on the Landlord's monetary claim which I hereby dismiss with leave to re-apply if the Landlord is able to locate and serve the Tenant in accordance with the Act.

Conclusion

In the absence of the Tenant appearing for the hearing, the Landlord has failed to provide sufficient evidence to show the Tenant was served with the required documents for this hearing. As a result, the Landlord's Application is dismissed with leave to re-apply. 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: September 05, 2017

Residential Tenancy Branch