



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lighthouse Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNRL-S, FFL**

Introduction

This hearing was scheduled to deal with a landlord's application for Monetary Order for unpaid and/or rent; and, authorization to retain the security deposit.

The landlord's agent appeared for the hearing; but, there was no appearance on part of the tenants.

Since the tenants did not appear, I explored service of the proceeding package upon the tenants.

The landlord's agent testified that she tried to approach the tenants on October 23, 2020 to give the tenants the proceeding packages while the bailiff was executing the Writ of Possession but the tenants left the property before she was able to give them the hearing documents.

The landlord's agent then sent the hearing documents to the tenants via email on October 23, 2020 because they do not have a forwarding address for the tenants. The landlord's agent sent a reminder email to the tenants in January 2021. The landlord's agent stated the tenants did not respond to the emails sent on October 23, 2020 or in January 2021.

Section 89(1) provides for the ways an applicant is to serve an Application for Dispute Resolution pertaining to a monetary claim upon the respondent. The permissible methods are: in person, by registered mail to the tenant's forwarding address or address of residence, or as ordered by the Director pursuant to a Substituted Service Order. The landlord was unsuccessful in serving the tenants in person on October 23, 2020. Email is currently not a permissible method of service and the landlord did not apply for or obtain a Substituted Service Order authorizing service by email. Therefore,

I find the tenants were not served in a manner that complies with section 89(1) of the Act.

Section 71 permits me discretion and authority to deem a person sufficiently served even if they were not served in a manner that complies with the Act; however, given the tenants did not appear for the hearing and did not respond to the emails the landlord sent to them, I find I am not sufficiently satisfied that they received the hearing documents via email and I decline to deem the tenants served.

In light of the above, I decline to proceed to hear this matter and 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: February 11, 2021

Residential Tenancy Branch