

## Dispute Codes

OPR, MNR, FF

## Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 18, 2009 the Landlord personally served the female Tenant, in the presence of a witness, with the Notice of Direct Request Proceeding. Based on the written submissions of the Landlord, I find the Tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

## Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Act*.

## Proof of Service of 10 Day Notice to End Tenancy

The Landlord submitted a copy of a Notice to End Tenancy, which was signed by the Landlord, on February 02, 2009. The Landlord submitted a copy of another Notice to End Tenancy, which was signed by the Landlord, on February 02, 2009. The second Notice has name of an agent for the Landlord printed below the Landlord's signature.

The Landlord submitted a copy of the Application for Dispute Resolution which provided that the Notice to End Tenancy was served on February 02, 2009. The Application does not specify if both Notices to End Tenancy were served on that date; it does not specify whether the Notice(s) was/were served by the Landlord or the agent for the Landlord; and it does not specify whether the Notice was served personally, by mail, or by posting it on the door.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlord has the burden of proving that the Tenant was served with the 10 day Notice to End Tenancy.

## Analysis

In the absence of the evidence of proof of service of the Notice to End Tenancy I find that the Landlord has failed to establish that the Tenant was served with the 10 day Notice to End Tenancy.

## Conclusion

Having found that the Landlord has failed to prove serve of the 10 day Notice to End Tenancy, I order that the direct request proceeding be reconvened in accordance with section 74 of the Act. Based on the foregoing, I find that a conference call hearing is required in order to determine the details of service of the 10 Day Notice to End Tenancy. Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve upon the Tenant within **three (3) days** of receiving this decision in accordance with section 88 of the Act

Dated March 23, 2009.

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