



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPR MNR MNSD FF

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the 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 24, 2009 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail, however the Canada Post receipt that was entered into evidence is blank. A fax was received from the landlord on March 27, 2009 advising that a new proof of service would be faxed that evening, however there are no additional faxes on file.

### 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, whether the landlord may retain the deposit and filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act* (Act). I have reviewed all documentary evidence.

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 is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the tenant was served with the Notice of Direct Request Proceeding.



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## Analysis

Based on the written submissions of the Landlord, I find that the landlord cannot prove that the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

## Conclusion

Having found that the landlord has failed to prove service of the notice of Dispute Resolution Direct Request Proceeding, I have determined that this application be dismissed 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: April 06, 2009.

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Dispute Resolution Officer