



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

INTERIM DECISION

Dispute Codes

OPR, MNR, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 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, a monetary Order for unpaid rent, and to recover the fee paid for filing this Application for Dispute Resolution.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that at 1645 hours on June 11, 2009 the male Landlord personally served the Tenant with the Notice of Direct Request Proceeding.

The Landlord received the Direct Request Proceeding package on June 11, 2009 and initiated service that day. Based on the written submissions of the Landlord, I find that the Dispute Resolution Direct Request Proceeding documents were served in accordance with section 89 of the Act.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent, 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 the Application for Dispute Resolution which provided that the Notice to End Tenancy was served by posting the Notice to the door of the rental unit on June 02, 2009. The Proof of Service is incomplete, as it does not specify the name of the person who served the Notice to End Tenancy and it is not signed by the person who served the Notice.

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.



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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 Landlord. A copy of the Notice of Reconvened Hearing, this Interim Decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenant, in accordance with section 88 of the Act, within **three (3) days** of receiving this decision.

Dated: June 19, 2009.

Dispute Resolution Officer