



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **fDECISION**

### Dispute Codes

OPR, MNR, FF

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) 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 October 16, 2009 at 7:10 pm the landlord personally served the female tenant with the Notice of Direct Request Proceeding and that at 7:20 pm the landlord personally served the male tenant at the rental unit. The female tenant has signed the Proof of Service of the Notice of Direct Request document acknowledging receipt of the Proceeding Package and as a witness to service of the male tenant.

Pursuant to section 90(a) of the Residential Tenancy Act I deem the tenants to have been served on the day of personal service.

Based on the written submissions of the Landlord, I find the tenants have 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 filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*. I have reviewed all documentary evidence.

### 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 on October 6, 2009 at 2:00 pm by posting to the door of the rental unit. The Notice to End Tenancy indicates that the tenants have failed to pay arrears of \$439.80. The landlord did not provide any details of the amount



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owed. There is no amount of rent owed indicated on the Notice to End Tenancy. The landlord's Application for Dispute Resolution indicates "unpaid arrears of 439.80 – penalties for late payments and NSF."

## Analysis

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 providing details of the amounts owed and that amount of unpaid rent owed. The Direct Request Procedure may not be utilized for a request that includes fees and I am unable to determine what portion of the amount owed is rent.

In the absence of evidence of the amount of unpaid rent owed I find that this Application for Dispute Resolution must be reconvened to a participatory hearing.

## Conclusion

Having found that the landlord has failed to provide evidence of the amount of unpaid rent owed, 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, with all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 88 of the Act.**

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: October 30, 2009.

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Dispute Resolution Officer