



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.

On November 19, 2009 the landlord submitted amended signed Proof of Service of the Notice of Direct Request Proceeding documents which declare that on November 17, 2009 at 9:00 am the landlord personally served the male tenant with the Notice of Direct Request Proceeding at the rental unit address. The landlord had submitted original Proof of service documents which indicate that the three tenants were served by providing the male tenant with copies of the required documents.

The amended Proof of Service submitted by the Landlord as evidence of service to the male tenant is signed by the male tenant, acknowledging that he has received the Notice of Proceeding on behalf of the three tenants named in the Application for Dispute Resolution.

Section 88(1) of the Act determines the method of service for documents. The landlord has applied for a monetary Order which requires that the landlord serve each respondent as set out under section 89(1). In this case only one of the three tenants has been personally served with the Notice of Direct Request Proceeding document. As the other two tenants have not been properly served the Application for Dispute Resolution as required by section 89(1) of the Act service of the monetary claim against the those tenants (T.A. and R.R.) has not been completed.

The landlord has submitted a residential tenancy agreement as evidence which indicates that only the female tenants have signed the agreement. The only tenant who has been served with Notice of this proceeding is not shown as a signatory to the tenancy agreement; therefore, I am unable to proceed with the direct request process.

Therefore, I find that this Application for Dispute Resolution must be reconvened to a participatory hearing. This will provide the parties with an opportunity to provide testimony in relation to the details of the tenancy.

Conclusion

Having found that the landlord has failed to prove service of the Notice of this Proceeding to each of the tenants and in the absence of proof that the male tenant is a signatory to the tenancy agreement, 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 the tenancy and to prove service of the hearing documents. Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve upon each of the tenants separately 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: November 25, 2009.

Dispute Resolution Officer