

DECISION

Dispute Codes OPR MNR MNSD 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, a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenants for this application.

The Landlord submitted an “unsigned” Proof of Service of the Notice of Direct Request Proceeding which declares that on January 20, 2010 the Landlord served each Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post Receipt numbers were submitted in the Landlord’s documentary evidence which lists an “in care of General Delivery” as the address.

The Landlord did not submit a Proof of Service of 10 Day Notice form to declare how and when the 10 Day Notice to End Tenancy was served.

Analysis

The Proof of Service of the Notice of Direct Request Proceeding for each Tenant is not signed by the Landlord or their Agent. Also, the Canada Post registered mail receipts lists an address for each Tenant as “c/o General Delivery” and then lists the City and Postal Code. Section 89 of the Act states that if service of hearing documents is sent via registered mail it must be sent to the address at which the person resides. I find that a person cannot reside at an address that is “in care of” nor can they reside at a general delivery address. Therefore I find that the Landlord has failed to prove that service of the hearing documents has been effected in accordance with the Act.

The Landlord submitted a document titled "Witness Statement" whereby a person signed the document as a Witness to service of a document served by the Landlord. I note that this witness statement does not specify what the document was that they witnessed being served, nor does it specify how or when the service took place or who the specific Landlord is. As per the aforementioned I find that the above mentioned Witness' Statement is of no purpose for this Direct Request Procedure.

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 Tenants were served with notices in accordance with the *Act*.

Having found that the landlord has failed to prove service of the notice of Direct Request Proceeding, I have determined that this application be dismissed with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, 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: January 28, 2010.

Dispute Resolution Officer