



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 February 10, 2010 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail.

The Application details indicate that the tenants have moved out, without giving Notice, and that the landlord has been informed by the tenant that they will not return. The landlord has served each tenant via registered mail sent to the rental unit address, even though the tenants no longer reside at the rental unit. I have no information before me as to when the tenants moved so am unable to determine if the registered mail was served within the required time frame. Therefore, I find, as provided by section 89 of the Act that the tenants have not been served with Notice of this proceeding.

The Application indicates that there are now people residing in the rental unit whom the landlord does not know and that the power to the unit has been terminated. In the absence of additional information I am unable to determine if there is jurisdiction under the Residential Tenancy Act or if the occupants are trespassers.

Conclusion

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 at which time jurisdiction can be determined.

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: February 17, 2010.

Dispute Resolution Officer