

DECISION

Dispute Codes – OPR, MNR, FF

Introduction

This matter was conducted 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 due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 31, 2010 at 4:45 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Residential Tenancy Act (Act)* states a document sent by mail is deemed served on the 5th day after it is mailed.

The landlord submitted his Application for Dispute Resolution on May 26, 2010 and the Notice of Hearing package was available for his pick up on May 26, 2010 at 11:16 a.m. As such the landlord was required under Section 59(3) of the *Act* to serve the tenants with notice the proceeding within 3 days of making his application

Based on the written submissions of the landlord, I find that the tenant has not been served with the Dispute Resolution Direct Request Proceeding documents in accordance with 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; to 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 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Conclusion

Based on my finding above regarding the service of the notice of this dispute, I dismiss the landlord's application in its entirety 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: June 08, 2010.

Dispute Resolution Officer