

## DECISION

### Dispute Codes

OPR, MNR

### Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (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 September 2, 2010, the landlord served the tenant with the Notice of Direct Request Proceeding via posting to the door of the rental unit at 4 p.m.. Section 90 of the Act determines that a document is deemed to have been served on September 5, 2010. However; posting to the door is not a method of service that may be used when seeking monetary compensation. Service must be completed either in person or via registered mail, as determined by section 89(1) of the Act.

I find that the tenant has been served for the purposes of an Order of possession, pursuant to section 89(2) of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement which did not include a signature page;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 19, 2010; the Notice did not include an effective vacancy date and indicated that it was served to the tenant in person.

Further, the Application indicated that the tenant's child had been served with the Notice ending tenancy; however, this information was altered to indicate the Notice had been

served by leaving the Notice “in the unit.” A proof of service document provided as evidence of service indicated that the Notice ending tenancy had been served to the tenant’s daughter; this information was scratched out and an addition was made, declaring that the Notice was posted to the door and left inside on the counter.

The landlord included a copy of an addendum to the tenancy agreement requiring the tenant pay last month’s rent at the beginning of the tenancy.

### Analysis

I find that the tenant has been served with Notice of this proceeding for the purposes of an Order of possession. However, I have no confidence that he tenant has been served with the Notice ending tenancy. The documents submitted as evidence contain contradictory information and indicated that the landlord may have entered the tenant’s rental unit in the absence of written Notice to do so.

Further, I find the Notice does not include an effective vacancy date, which I find, pursuant to section 52 of the Act, renders the Notice of no force or effect.

Therefore, I find that this Application is dismissed.

I note that the addendum requiring payment of last month’s rent at the start of the tenancy is a breach of the Act, which allows a security deposit to be paid that does not exceed one half of one month’s rent.

### Conclusion

The Application is dismissed.

The Notice ending tenancy issued on August 19, 2010, is of no force or effect.

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: September 14, 2010.

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Dispute Resolution Officer