



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR

Introduction

This Direct Request Proceeding was commenced by the landlord's application for an Order of Possession and a monetary claim due to non-payment of rent by the tenant. In the Direct Request Process there is no hearing held, rather it is a proceeding done by written application only, and the Dispute Resolution Officer must satisfied that the Tenants were served in accordance with the Act and with Notice of the direct request proceedings.

Service Issues

The Direct Request Process relies on the landlord providing sufficient evidence that the Notice of Direct Request Proceeding has been served upon the tenant in a manner required by section 89(1) and (2).

Section 89(1) and (2) provide that a tenant may be served by registered mail, in person or by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant. In order to proceed with an application for an Order of Possession and a monetary order for unpaid rent, a landlord must serve the tenant either by registered mail or directly in person.

The landlord provided a Proof of Service of Notice of the Direct Request form which declares that on December 22, 2010 the landlord served the tenant or occupant with the documents at the rental unit at 3:15 p.m.

The landlord states in the details of this application that the tenant has vacated the rental unit and as a result I am unable to conclude that the landlord served the tenant with the Notice of the Direct Request Proceeding in person as declared on the Proof of Service document. I can only conclude that the landlord served the documents on an individual that the landlord presumes is an occupant of the rental unit.

No evidence was provided by the landlord to identify who was served the documents or to confirm that the person served with the documents was an adult and that this person actually resides with the tenant.

Therefore, I am not satisfied that the tenant was served with Notice of the Direct Request Proceeding.



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Conclusion

I dismiss the landlord's application, with leave to re-apply, as it has not been established that the tenant was served with the notice of the Direct Request Proceeding. The landlord may file a new application based on the same 10 Day Notice to End Tenancy and serve the new documents in accordance with section 89(1) and (2) 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: January 06, 2011.

Residential Tenancy Branch