



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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 (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. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 31, 2011 the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail.

In addition, the address used on the registered mail receipts submitted as proof of service for the Notice of Direct Request Proceeding documents lists a different address than the dispute or service address provided by the landlord with no explanation provided as to why a different address is being used for service.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Analysis

Section 59 of the *Act* requires that a person who makes an Application for Dispute Resolution must give a copy of the Application to the other party within 3 days of making it. The landlord was provided with the Notice of Direct Request Proceeding documents for this Application on January 27, 2011 and therefore was required to serve the tenants no later than January 30, 2011. I find the landlord has failed to serve the tenants with his Application in accordance with Section 59.

Section 89 requires a landlord who has filed an Application for Dispute Resolution that includes more than an order of possession to serve a copy of the application to the tenants in any one of the following ways: by leaving a copy with the tenant; by sending a copy by registered mail to the address at which the tenant resides; or by sending a copy by registered mail to a forwarding address provided by the tenant.

As the landlord's Application is for an order of possession and a monetary order and in the absence of an explanation from the landlord as to what address he sent the Notice of Direct Request Proceeding documents to, I find the landlord has failed to establish that the tenants were served in accordance with Section 89.

Conclusion

For the reasons noted above, 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: February 09, 2011.

Residential Tenancy Branch