



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes

OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) 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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 07, 2011 the Landlord personally served the Tenant with the Notice of Direct Request Proceeding at the rental unit. Based on the written submissions of the Landlord, I find the Tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

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 55 and 67 of the *Act*.

Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant
- A copy of a residential tenancy agreement that appears to be signed by the Tenant, which indicates that the tenancy began on August 01, 2009 and that the rent of \$650.00 is due on the first day of the month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by the Landlord and is dated February 23, 2011 which declares that the Tenant must vacate the rental unit unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$650.00, that was due on February 01, 2011.

- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that he placed the Notice to End Tenancy under the Tenant's door on February 23, 2011 at 10 a.m., in the presence of his common-law wife, who also signed the Proof of Service.

On the Application for Dispute Resolution, the Landlord indicates that the 10 Day Notice to End Tenancy was placed under for Tenant's door on February 23, 2011.

Analysis

I find that the Landlord has not served the Tenant with the Notice of Direct Request Proceeding, in a manner that is required by section 89 of the Residential Tenancy Act (Act). Although section 89(2)(d) of the *Act* allows a Notice of Direct Request Proceeding to be served by attaching a copy to a door or other conspicuous place, I do not find that placing it under a door is the same as attaching it to the door, as there is a distinctly possibility that an item placed under a door could be overlooked or lost.

Conclusion

Having found that the Landlord has failed to prove service of the Notice of Direct Request Proceeding, I dismiss the Landlord's Application for Dispute Resolution 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: March 15, 2011.

Residential Tenancy Branch