



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing proceeded 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 for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 9, 2011, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. A completed copy of a Canada Post Receipt was submitted in the Landlord's evidence, listing a different address for the Tenant than that which is listed on the 10 Day Notice and on the tenancy agreement.

### Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order for unpaid rent?

### Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant which lists a different address for the Tenant than that which is listed on the tenancy agreement and 10 Day Notice;
- A copy of a residential tenancy agreement which was signed on October 1, 2010 for a fixed term tenancy beginning October 1, 2010 and ends on September 30, 2011. The monthly rent of \$850.00 is due on first day of the month and a deposit of \$425.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, May 3, 2011 with an effective vacancy date of May 3, 2011, due to \$875.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid when it was posted to the Tenant's door on May 3, 2011 at 4:18 p.m. in the presence of a witness.

### Analysis

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 9, 2011 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail however the Landlord has indicated that the registered mail was sent to an address that is not the same as the rental unit. There is no indication that the Tenant has moved to a different unit therefore there is insufficient evidence to prove the registered mail was sent to the address where the Tenant resides, as required by section 89 of the Act.

The Landlord is seeking to end the tenancy due to a breach; however, the Landlord has the burden of proving that the Tenant was served with notice of the Direct Request Proceeding, in accordance with section 89 of the Act which states that if served via registered mail it must be sent to the address where the tenant(s) reside.

In the presence of contradictory information pertaining to the service of the Direct Request Proceeding documents I cannot determine if service was effected in accordance with the Act.

Therefore based on the above, I have determined that this application does not meet the requirements of the Direct Request process, and I hereby dismiss it with leave to reapply.

### Conclusion

**I HEREBY DISMISS** the Landlord's application, 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 20, 2011.

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Residential Tenancy Branch