



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 for unpaid rent.

Preliminary Matter

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding. The Proof of Service document declares that on June 20, 2011 at 5 p.m. the Landlord served the Notice of Direct Request Proceeding on the Tenant by leaving the documents with “the tenant” at the rental unit. In addition, the Landlord provided a copy of a document entitled “Receipt of Notice of Direct Request”, together with a document entitled “Witness of the delivery of the Notice of Direct Request”. Both of these documents indicate that another person DM (other than the named Tenant on the Landlord’s application) was served with the Notice of Direct Request on “20th June 2011 at 5 p.m.” The other person DM identifies himself, and is identified by the Witness, as a resident at the rental unit.

I have questions with respect to the Landlord’s documentary evidence and the service upon the Tenant named in the Landlord’s application. It is not clear from the Landlord’s documentary evidence that the Tenant DD was served with the Notice of Direct Request Proceeding. It would appear that the Landlord may have served the other person DM with the Notice of Direct Request Proceeding, but not the Tenant DD. Section 89(1) of the Act sets out the service provisions for a Notice of Direct Request Proceeding. There is no provision in Section 89(1) of the Act for serving the Tenant DD by leaving a copy of the documents with another person who resides at the rental unit. The documents must be served upon the Tenant DD himself in order to be considered sufficiently served.

Based on the written submissions of the Landlord, I find that the Landlord did not provide clear documentary evidence of proof of service of the Notice of Direct Request

Proceeding upon the Tenant DD and therefore their application is dismissed with leave to reapply.

Conclusion

The Landlord did provide clear documentary evidence that he served the Tenant DD with the Notice of Direct Request Proceeding documents in accordance with the provisions of Section 89(1) of the Act, and therefore his application is dismissed **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: July 08, 2011.

Residential Tenancy Branch