



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

DECISION AND REASONS

Introduction and Preliminary Issue

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 and a Monetary Order.

The landlord submitted a copy of a 10 Day Notice for Unpaid Rent (the "Notice") and submitted a Proof of Service which was incomplete as it did not list the name of the tenant in the delivery portion of the Proof of Service, or the date or time the Notice was allegedly delivered.

Section 46 of the Residential Tenancy Act (the "Act") states that a landlord may end a tenancy for unpaid rent by giving a notice to end the tenancy. This section also gives a tenant the right to pay the rent listed as being due or make an application to dispute the Notice within five days of receiving it.

Section 88 of the Residential Tenancy Act (the "Act") deals with methods of delivery of documents, in this case, personal delivery.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the tenant was served with the 10 day Notice to End Tenancy, according to section 46, and which meets the service provisions under section 88 of the *Residential Tenancy Act*.

Conclusion

I find that the landlord has not met the requirements of the Act by their failure to submit proof that the tenant was served with a 10 Day Notice for Unpaid Rent, due to the lack of a recipient's name and date of delivery. Without this proof, I cannot conclude that the

tenant was given a Notice and was informed of her rights under the Act. I therefore find the Notice is not enforceable.

Based on the above I find that this application does not meet the requirements for the Direct Request process and I hereby **dismiss** the landlord's application **without 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: September 13, 2011.

Residential Tenancy Branch