



Dispute Resolution Services

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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 declared that the tenants were served via delivery on August 23, 2011, through a "friend" who lived there. However, the "friend's" name listed only that person's given name and not a surname. Additionally, the addendum to the tenancy agreement stated that only 2 adults, the tenants, and 2 children were to reside in the rental unit.

Section 88 of the Residential Tenancy Act (the "Act") states that delivery of documents, the Notice in this case, may be made, among other ways, by leaving a copy at the person's residence with an adult who apparently resides with the person.

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 tenants were served with the 10 day Notice to End Tenancy 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 his failure to prove that the tenants were served with a 10 Day Notice for Unpaid Rent in a manner complying with section 88 of the Act as I cannot conclude, upon a balance of probabilities, that the friend lives in the rental unit. Without this proof, I 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