



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 Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 23, 2011 at 14:00 hrs the Landlord served XXXXXXXX in person at the rental unit with both Notices of Direct Request Proceeding.

Issue(s) to be Decided

1. Has service of the Direct Request Proceeding documents been effected in accordance with section 89 of the *Residential Tenancy Act*?

Background and Evidence

The Landlords submitted a Proof of Service of the Notice of Direct Request Proceeding which declares they served the Notices to a person other than the Tenants. The person served listed on the tenancy agreement as the Tenant's son however there is no evidence as to the age of this son.

Analysis

When seeking to end a tenancy due to a breach a landlord has the burden of proving that each tenant is served with notice of the Direct Request Proceeding in accordance with section 89 of the Act.

Section 89 (1) of the Act provides that when seeking both an Order of Possession and a Monetary Order that each person must be served, either in person or by registered mail. When seeking only an Order of Possession Section 89(2)(c) provides that service

may be effected by leaving the documents with an adult who resides with the Tenants. As there is no evidence before me to indicate the age of the Tenants' son I find the method of service used in this case does not meet the requirements of the Direct Request process. Accordingly this application is dismissed 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: September 26, 2011.

Residential Tenancy Branch