



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DIRECT REQUEST DECISION**

Dispute Codes : OPR, MNR

### Introduction

The 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 for rental arrears.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 14, 2011, the landlord served the tenant with the Notice of Direct Request in person. Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession and a monetary Order for rental arrears pursuant to 55 and 67 of the *Residential Tenancy Act (the Act)*. I have reviewed all documentary evidence.

### Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a "Proof of Service" form stating that the Notice was served to the tenant by leaving it with an individual other than the tenant.

Section 88 of the Act states that all documents, other than those referred to in section 89 [*special rules for certain documents*], are to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;

(e) by leaving a copy at the person's residence with an adult who apparently resides with the person;

(f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, the business address for the landlord;

(g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, the business address.

(h) by transmitting a copy to a fax number provided as an address for service by the person to be served;

(i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];

(j) by any other means of service prescribed in the regulations.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the *Act* and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy. In this instance I find that the Ten Day Notice to End Tenancy for Unpaid Rent was served by giving it to a person other than the tenant. However, I find that the landlord did not sufficiently verify that this individual was an adult who was apparently residing with the tenant.

Given the above, I find that valid service of the Ten Day Notice to End Tenancy for Unpaid Rent was not sufficiently proven to proceed with this direct request application.

### **Conclusion**

Based on the evidence submitted with this application, I find that this matter cannot proceed as a Direct Request determination. Accordingly, I hereby dismiss this 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 20, 2011.

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Residential Tenancy Branch