



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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*, in response to an application made by the landlord for an Order of Possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail, however the date on the Proof of Service document is illegible, and the photocopy of the registered mail receipts do not show a date. Section 90 of the *Residential Tenancy Act* provides that a document is deemed to have been served 5 days after mailing. However, the *Act* states that a person who makes an application for dispute resolution must serve the application within 3 days of making it and I have no evidence before me to determine whether or not the tenant has been served in accordance with the *Act*. The Notice of Direct Request Proceeding and the Landlord's Application for Dispute Resolution must be served together, and in the absence of any evidence to support the date that the tenant was served, the landlord's application cannot succeed by way of direct request.

### Conclusion

I hereby order a participatory hearing. The parties will receive a notice of the hearing date from the Residential Tenancy Branch setting out the date and time of the hearing, along with instructions for dialling into a conference call hearing.

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: December 19, 2011.

---

Residential Tenancy Branch