



# 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 Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 21, 2011 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. A “blank” copy of a Canada Post Receipt was submitted in the Landlords’ evidence which does not provide the name and address of the person to whom the registered mail was sent.

### 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 Landlord submitted an incomplete Proof of Service of the Notice of Direct Request Proceeding which is signed and declares that on November 21, 2011 at 2:00 p.m. the Landlord served the Tenant via registered mail; however the Landlord did not provide the name and address where the registered mail was sent.

### Analysis

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

Section 89(1)(c) of the Act provides that when serving an application for dispute resolution by registered mail it must be sent to the address at which the person resides.

In the absence information pertaining to the name and address of who was served the Notice of the Direct Request Proceeding documents via registered mail, I cannot find that service was effected in accordance with the Act.

Furthermore, the proof of service of the direct request documents indicates service of the hearing documents was conducted on November 21, 2011, which cannot have occurred as the Landlord's application was not filed until November 30, 2011, nine days later. Accordingly I dismiss the application, with leave to reapply.

Conclusion

**I HEREBY DISMISS** the Landlords' 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: December 05, 2011.

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Residential Tenancy Branch