



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 18, 2012, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided the Canada Post Tracking Number and photocopies of the on-line delivery details and scanned delivery record regarding this mailing.

### Service of Notice of Direct Request and Application for Dispute Resolution

The landlord did not provide a copy of the Canada Post Customer Receipt identifying the name and mailing address used in the registered mail to the tenant. The scanned delivery record provided by the landlord identifies the delivery of the registered mail to a “R(first name) L.” on April 3, 2012. The on-line delivery record provided by the landlord to support this application identified the recipient who signed for this registered mail as “R. L (last name).” None of the other documents submitted by the landlord in support of this application make any reference, either as a co-tenant or as an occupant, to a R (first name) L (last name) or R. L (last name).

### Analysis – Service of Notice of Direct Request and Application for Dispute Resolution

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...when required to be given to one party by another, must be given 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 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 registered mail to a forwarding address provided by the tenant;*
- (e) *as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

Section 90 of the *Act* determines that a document served by registered mail is deemed to have been served five days later.

I find that the landlord has not provided sufficient written evidence to substantiate that the landlord has sent a copy of the Notice of Direct Request, including the landlord's application for dispute resolution, to the correct tenant at the correct address. Under these circumstances, I find that the landlord has not demonstrated that the tenant has been served with the Notice of Direct Request and the application for dispute resolution in a manner required by section 89(1) of the *Act*. I dismiss the landlord's application with leave to reapply.

Although it has no bearing on my consideration of the landlord's application, I should also note that had I been satisfied with the landlord's service of documents to the tenant, I would have found the landlord's provision of information to support the amount of his monetary award lacking. The landlord has not provided a complete rent ledger for this tenancy in support of the application for a monetary award of \$9,770.00. The Statement the landlord provided identified only five select months where rent was outstanding during the course of a tenancy from December 1, 2010 until April 1, 2012. Should the landlord reapply for dispute resolution seeking a monetary award, I would strongly suggest that the landlord produce complete rental records for the entire period commencing when the landlord claimed that rent has been outstanding.

### Conclusion

I 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: April 30, 2012

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Residential Tenancy Branch