



# 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 (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 8<sup>th</sup>, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. The landlord also submitted a signed Proof of Service for the 10 Day Notice to End Tenancy indicating that the Notice was left personally with a person whose name does not match the tenant's name.

Section 88(e) of the *Act* allows service of a document by leaving a copy at the person's residence with an adult who apparently resides with the person. There were no additional details in the Application to confirm whether the person served personally was an adult.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the tenant was served with the 10 Day Notice to End Tenancy.

### Analysis

In the absence of evidence of proof of service of the Notice to End Tenancy I find that the landlord has failed to establish that the tenant was served with the 10 Day Notice to End Tenancy.

### Conclusion

Having found that the landlord has failed to prove service of the 10 day Notice to End Tenancy, I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. Based on the foregoing, I find that a conference call hearing is

required in order to determine the details of service of the 10 Day Notice to End Tenancy. **Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve, with all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 88 of the Act.**

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: May 15, 2012.

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Residential Tenancy Branch