



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 deals with an Application for Dispute Resolution 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 on August 20, 2012, the Landlord served the Tenants with Notice of Direct Request Proceeding by registered mail.

Based on the written submissions of the Landlord, I find that the Tenants have been duly served with the Direct Request Proceeding Documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on **August 7, 2012** with a stated effective vacancy date of August 17, 2012, for \$1,040.00 in unpaid rent;

- A copy of the Proof of Service of the Notice to End Tenancy showing that the Landlord served the Notice to End tenancy to the Tenant on **August 2, 2012** by posting the Notice on the Tenant's door

Analysis

I have reviewed all documentary evidence in relation to service of the 10 Day Notice for Unpaid Rent (the "Notice"). As the affidavit of service of the Notice indicates that the Notice was served in advance of the issuance date of the Notice, I find that this contradiction does not allow for a finding that service of the Notice has occurred. Accordingly, I dismiss the application for a direct request with leave to reapply for a participatory hearing.

Conclusion

The application is dismissed 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: August 27, 2012.

Residential Tenancy Branch