



# Dispute Resolution Services

Page: 1

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 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 Tenant with the Notice of Direct Request Proceeding via registered mail. A copy of the registered mail receipt and tracking number was provided in evidence.

Service in this manner is deemed to be effective 5 days after mailing the documents. Based on the written submissions of the Landlord, I find the Tenant was duly served with the Dispute Resolution Direct Request Proceeding documents on August 25, 2012.

### **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 from July and August, 2012?

### **Background and Evidence**

The Landlord submitted the following evidentiary material:

- A Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on May 1, 2012, indicating \$670.00 per month rent due on the first of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 2, 2012, for \$955.00 in unpaid rent; and

- A Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent.

Documentary evidence filed by the Landlord indicates that the Landlord's agent served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving it personally with a person other than the Tenant at the rental unit on August 2, 2012 at 9:30 a.m. The Proof of Service document does not indicate whether the person is living in the rental unit or whether he is an adult person.

### **Analysis**

Section 88 of the Act provides the methods for giving or serving documents generally, as follows:

#### **How to give or serve documents generally**

**88** All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person **must** be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;**
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;

(h) by transmitting a copy to a fax number provided as an address for service by the person to be served;

(i) as ordered by the director under section 71 (1)  
*[director's orders: delivery and service of documents];*

(j) by any other means of service prescribed in the regulations.

(emphasis added)

The Landlord did not provide evidence that the person served with the Notice to End Tenancy was living with the Tenant or that he was an adult person and therefore I find that the Landlord had provided insufficient evidence that the Tenant was served with the Notice to End Tenancy in accordance with the provisions of Section 88 of the Act.

As I find insufficient proof that the Tenant was duly served the Notice to End Tenancy on which the Landlord seeks an Order of Possession, I dismiss the Landlord's application **with leave to reapply**.

### **Conclusion**

The Landlord's 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