



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes - OPR, MNR

Introduction

This matter was conducted 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 due to unpaid rent. A participatory hearing was not convened. The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 15, **2011** the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. The Notice of Direct Request Proceeding was dated August 15, **2012**.

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 through the Direct Request process; the landlord has the burden of proving that the tenant was served with the Notice of the Direct Request Proceeding.

Analysis

Since the Notice of Direct Request Proceeding is dated August 15, 2012, the date of service outlined in the signed Proof of Service is inconsistent with the landlord's receipt of the Notice from the Residential Tenancy Branch. With conflicting evidence of proof of service of the Notice of Direct Request Proceeding I find that the landlord has failed to establish that the tenant was served with the Notice.

Conclusion

Having found that the landlord has failed to prove service of the Notice of Direct Request Proceeding I dismiss this 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: October 16, 2012.

Residential Tenancy Branch