



# 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 October 11, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5<sup>th</sup> day after it is mailed.

The address noted on the Canada Post Registered Domestic Customer Receipt to which the registered mail was Box \_\_\_\_, XXXXXX, BC. As the tenancy agreement, 10 Day Notice to End Tenancy for Unpaid Rent, and the landlord's Application for Dispute Resolution all list the tenant's service address as the same as the dispute address and the Receipt does not provide a box number, I find the landlord has failed to provide sufficient evidence of where the documents were served.

In addition Section 89 of the *Act* requires these documents to be served in any of the following methods:

1. By leaving a copy with the person;
2. By sending a copy by registered mail to the address at which the person resides;
3. If the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant; or
4. As ordered by the director under Section 71(1).

As the landlord has provided no documentation as to why an address different than the dispute address was used for service, I am unable to determine if the address used for service of the Notice of Direct Request Proceeding is one provided by the tenant.

Based on the written submissions of the landlord and in the absence of the ability to question the parties on this matter, I find that the landlord has failed to provide sufficient evidence to establish the tenant was served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Conclusion

For the reasons noted above, I dismiss the landlord's Application for Dispute Resolution in its entirety 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 17, 2012.

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Residential Tenancy Branch