



# 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* (the "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 January 3, 2013 the landlord personally served each tenant with the Notice of Direct Request Proceeding. Service was completed at the rental unit address, at 2:26 p.m.

Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that each tenant has been 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 monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each tenant;
- A copy of a residential tenancy agreement which was signed by the parties on November 15, 2012, indicating a monthly rent of \$1,350.00 due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 10, 2012 with a stated effective vacancy date of December 21, 2012, for \$725.00 in unpaid rent due on December 1, 2012.

Documentary evidence filed by the landlord indicates that the tenants failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery to an occupant of the home. The proof of service document signed by an agent of the landlord, indicated that the person who came to the door and accepted service of the notice on December 11, 2012, at 3:30 p.m. may have been a relative of the tenant's.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

### Analysis

I have reviewed all documentary evidence and am unable to find that service of the Notice was made in accordance with the Act. The landlord's agent served a male who came to the door of the tenant's rental unit; this male was only identified as a possible relative of the tenants.

Section 89(2) of the Act allows the landlord to serve the tenants with a Notice ending tenancy, via an adult who apparently resides in the home. There was no evidence before me as to the status of the person served; if he was an adult and if he lives at the rental unit.

Therefore, in the absence of evidence of service completed in accordance with the Act, I find that the request for an Order of possession and monetary Order is dismissed with leave to reapply.

### Conclusion

The application is dismissed with leave to reapply.

Dated: January 08, 2013.