



# 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 Landlords for an Order of Possession for unpaid rent 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 December 27, 2012 the Landlord served the Tenant with the Notice of Direct Request Proceeding in person with the Tenant and via registered mail. A blank "incomplete" copy of a Canada Post Receipt was submitted in the Landlords' evidence.

### Issue(s) to be Decided

1. Has service of the Direct Request Proceeding documents been effected in accordance with section 89 of the *Residential Tenancy Act*?

### Background and Evidence

The Landlord submitted proof of Service of the Notice of Direct Request Proceeding forms which are signed and declare that on December 27, 2012 at 10 a.m. the Landlord served the Tenant in person "with the tenant at" the rental address and by registered mail. The Landlords provided separate documents with copies of the Canada Post receipts however there is no information written on the tracking tags to indicate which address the Tenant was sent the package or if in fact the Tenant was served in person with the documents.

### Analysis

When seeking to end a tenancy due to a breach a landlord has the burden of proving that the tenant was served with notice of the Direct Request Proceeding in accordance with section 89 of the Act.

The Proof of Service form indicates the following:

*Attach a **completed** Canada Post Registered Mail Receipt, including tracking number here or on a separate page [my emphasis added].*

Section 89(1)(c) of the Act provides that when serving an application for dispute resolution by registered mail it must be sent to the address at which the person resides.

The Landlord submitted contradictory evidence that indicates the Tenant was served in person at the rental unit and by registered mail; however they did not provide information to indicate the address the package was sent . Therefore, I cannot determine if service was effected in accordance with the Act. Accordingly I dismiss the application, with leave to reapply.

Conclusion

**I HEREBY DISMISS** the Landlord's application, with leave to reapply.

No findings of fact or law have been made in relation to the 10 Day Notice issued December 6, 2012.

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: January 02, 2013.

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Residential Tenancy Branch