



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Whitworth Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory, ex parte 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 for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 16, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, via registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later.

Preliminary Issue

The direct request procedure is based upon written submissions only. Accordingly, written submissions must be sufficiently clear and in accordance with the Act in order to succeed. One of the documents that must be submitted in order to qualify for the direct request procedure is proof that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent, which is the document upon which the direct request process is based upon.

In this case the landlord's evidentiary submission shows that the Notice was left with someone who was not named in the application, the tenancy agreement, or the Notice. There was no explanation provided as to the identity of the person served the Notice, other than a drawn-in arrow pointing to a line on the document, which is the line for the tenant to sign an acknowledgement of receipt.

Under these circumstances as the landlord has not submitted proof that the tenant was served with 10 Day Notice to End Tenancy for Unpaid Rent in accordance with section 88 of the Act, **I dismiss** the landlord's application **with leave to reapply**.

The landlord should not apply for a direct request proceeding unless all documents are prepared in accordance with the Act and Regulations. Therefore, the landlord may wish to submit a new application through the normal dispute resolution process which includes a participatory hearing.

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* and is being mailed to both the applicant and the respondent.

Dated: April 22, 2013

Residential Tenancy Branch