



# 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 26, 2013 the landlord served the tenant with the Notice of Direct Request Proceeding via personal delivery at the rental unit.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on January 10, 2013, indicating a monthly rent of \$2,000.00 due on the 1<sup>st</sup> day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 20, 2013 with an unspecified effective vacancy date for \$3,000.00 in unpaid rent as of September 1, 2013; and,
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord personally gave "Ms. A" the 10 Day Notice on September 20, 2013. The

landlord's spouse signed the Proof of Service in the space provided for witnessing the posting of a 10 Day Notice on the door of a rental unit.

In the details of dispute the landlord indicates that the tenant failed to pay  $\frac{1}{2}$  of the rent due for August 2013 and all of the rent payable for September 2013 bringing the sum of unpaid rent to \$3,000.00.

### Analysis

The purpose of serving documents under the Act is to notify the person being served of their breach and the action being taken against them.

As the Direct Request procedure is based upon written submission only, the landlord's submissions must be sufficiently complete and valid in order to succeed.

In this case, I find the landlord's evidence concerning the 10 Day Notice to be problematic for two reasons:

1. The 10 Day notice does not stipulate an effective date.
2. The landlord provided incomplete and inconsistent evidence that the 10 Day Notice was served upon the tenant in a manner that complies with the Act. .

Of particular concern is the proof of service of the 10 Day Notice. The Act does permit a landlord to give a Notice to End Tenancy to an adult person that apparently resides with the tenant. However, in this case, the landlord did not provide any indication that "Ms. A" is an adult who resides with the tenant at the rental unit. Further, it would appear that service upon Ms. A has not been corroborated by a witness. Although the landlord's spouse signed the Proof of Service for the 10 Day Notice, she indicated that she witnessed the landlord post the 10 Day Notice on the door.

Based on the above, I find I am not satisfied that a valid 10 Day Notice was sufficiently served upon the tenant. Therefore, I dismiss the landlord's Application for Dispute Resolution. The landlord is at liberty to serve another 10 Day Notice to the tenant if rent remains outstanding and may file an subsequent Application for Dispute Resolution based upon that Notice.

### Conclusion

The landlord's application for an Order of Possession has been denied. The landlord is at liberty to serve the tenant with another 10 Day Notice if rent remains unpaid and file another Application for Dispute Resolution based upon that Notice.

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 01, 2013

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Residential Tenancy Branch