



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST 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 landlord for an Order of Possession and a monetary order.

Preliminary Issue

Evidence verifies that the landlord made an application for a Direct Request Proceeding on November 12, 2013. The landlord submitted signed a Proof of Service of the Notice of Direct Request declaring that the landlord served the tenant with the Notice by registered mail sent on November 12, 2013.

However, the landlord did not include the registered mail tracking slip which documented the name and address of the party served. The landlord did attach a payment receipt from Canada Post verifying that the package was served by Express Post along with a tracking number.

Although I do accept that the landlord served the documents to the tenants by Express Post mail, I find that the landlord did not choose the option that required the recipient to personally sign a receipt for the express mail upon delivery. Instead, Canada Post delivered the mail *without* any requirement for signed confirmation from the specific addressee.

I find that the landlord has applied for a Monetary Order under section 67 of the Act which requires that the landlord serve the tenant as set out under section 89(1) of the Act, below:

- (a) by leaving a copy with the person, (personal service);
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;

(c) **by sending a copy by registered mail to the address at which the person resides or**, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*]. (My emphasis)

Had the landlord chosen the option of delivery that required confirmation by having the specific addressee physically sign the slip in accepting the package, the express mail method of service would be considered *equivalent* to registered mail service and would therefore meet the above requirements of the Act.

However, in this case, because the landlord had served the documents by Express Post mail without choosing the signature-on-delivery option, I find that the landlord has not sufficiently met the requirement under the Act for proper service of the hearing package to the respondent.

I find that all of the documentation relied upon to prove service under the Act must be complete, in order to establish that there was service to the specific person at the address identified. Because of the missing address that would otherwise be shown on the Canada Post tracking slip and the fact that the mail was delivered with verification by signature, I find that the landlord has not met the requisite burden of proof regarding the service of this application.

Having found that the landlord has failed to meet the proof of service, I find that this application cannot proceed and must be dismissed. Accordingly I hereby dismiss this application 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: November 26, 2013

Residential Tenancy Branch

