



Dispute Resolution Services

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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.

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

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 55 and 67 of the Act?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding that was posted on the tenant's door.
- An incomplete Proof of Service form relating to service of the Ten-Day Notice to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 3, 2014 for \$1,412.00 in rental arrears, and
- A copy of a residential tenancy agreement signed by the parties on May 26, 2013. The tenancy agreement does not show the monthly rental rate for the unit.

Preliminary Matters

Service of the Notice of Direct Proceeding

Sections 88 and 89 of the Act determine the method of service for documents. The Tenant has applied for a Monetary Order under section 67 of the Act which requires that the landlord serve the tenant with hearing documents as set out under Section 89(1). This requires service in one of the following ways:

- (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].*

In this case the landlord served the hearing documents in a manner not in compliance with any of the above methods listed under section 89(1) of the Act required to seek an order for monetary compensation. Therefore, I find that it is not possible to proceed with the monetary claim portion of the landlord's application

However Section 89(2) of the Act does allow an application for an Order of Possession pursuant to section 55 of the Act, to be served by “*attaching a copy to a door or other conspicuous place at the address at which the tenant resides*”.

I find that the portion of this application pertaining to the Order of Possession, was duly served under the Act by posting it and this is therefore the only matter in the landlord's application that can be heard through the Direct Request Proceeding. The monetary portion of the application must be dismissed with leave to reapply as the application was not served in person or by registered mail.

Proof of Service of the 10-Day Notice to End Tenancy for Unpaid Rent

This is an application to proceed by way of *Direct Request Proceeding*, pursuant to section 55(4) the Act. The *Fact Sheet* containing directions and listing the

requirements for an applicant to apply for a resolution under this section states that the following mandatory documentation must accompany the Application:

- Copy of the 10 Day Notice to End Tenancy
- Copy of the Tenancy Agreement
- **Proof of Service of the 10 Day Notice to End Tenancy**

I find that, although the landlord submitted a “Proof of Service” form verifying service of the 10-Day Notice to End Tenancy for Unpaid Rent, this form was not complete in that it did not identify the method of service

Given the above, I find that this application may not proceed by way of direct proceeding so I must dismiss this application. However, I do so granting the landlord leave to reapply.

I hereby dismiss the landlord’s application with leave to reapply.

Conclusion

The landlord is not successful in the Direct Request application, and it is dismissed 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: February 21, 2014

Residential Tenancy Branch

