



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 (Act)*, and dealt with an Application for Dispute Resolution by the landlords for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 28, 2014 the landlords served **both** tenants with the Notice of Direct Request Proceeding via registered mail in one package.

The purpose of serving documents under the *Act* is to notify **each** person who is a party to the dispute of their breach and notification of their rights under the *Act* in response. The landlords are seeking to end the tenancy due to this breach through the Direct Request process; the landlords have the burden of proving that **each** tenant was served with the Notice of the Direct Request Proceeding.

Issues to be Determined

The issues to be decided are whether the landlords are entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Analysis

Section 59(3) of the *Act* requires a party who files an Application for Dispute Resolution to serve the other party or parties with a copy of the Application within 3 days of making their Application.

In the case before me, the landlords have provided evidence that the Notice of Direct Request Proceeding was sent to **both tenants in one package**. As such, I am unable to determine if one of the tenants received the package only and if so which party it was who received the package.

In order to proceed with an Application for Dispute Resolution the landlords were required to ensure that **both** tenants were served with individual packages of the landlords' Application and Notice of Direct Request Proceeding.

Conclusion

Having found that the landlords have failed to prove service of the Notice of Direct Request Proceeding to **each** of the tenants I 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: March 06, 2014

Residential Tenancy Branch

