



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

The Landlord submitted an affidavit in relation to the service of the Notice of Direct Request Proceeding that includes the Application. This affidavit appears to indicate that the “son” of the Tenant was served with the documents. No evidence was submitted in relation to the age of the “son” or whether this “son” is the same person listed as a tenant on the tenancy agreement but not named as a Respondent on the Application.

Section 89 of the Act provides that an application by a landlord for an order of possession under section 55 must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;

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

Given the lack of evidence in relation to the age and residence of the person apparently served with the Application and noting that this person is not named on the Application, I find that the Landlord has not provided sufficient evidence of service of the Application on the Tenant as required under the Act. I therefore dismiss the Application with leave to reapply.

I note that the remaining evidence provided for this Direct Request Proceeding also raises questions in relation to the calculation of rent owed and whether the amounts being claimed also contain late fees that are not eligible for claim under the Direct Request Proceeding. I also note a conflict in the amounts indicated on the Application as owing for March and April 2013 rent and the amount indicated on the notice to end tenancy for unpaid rent (the "Notice") as owed for April 1, 2014. Given that the evidence provided raises questions that cannot be addressed in this process, I strongly encourage the Landlord to reapply under the participatory process to avoid dismissals from this Direct Request Proceeding for lack of sufficient or clear evidence submissions.

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: May 29, 2014

Residential Tenancy Branch

