



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 2128 INVESTMENT LTD  
and [tenant name suppressed to protect privacy]

## **DIRECT REQUEST DECISION**

Dispute Codes : OPR, MNR

### Introduction

The 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 for rental arrears based on a Ten Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding stating that on May 5, 2014, the landlord served each tenant with the Notice of Direct Request in person. Based on written submissions of the landlord, I find the tenant n duly served with the Direct Request Proceeding documents.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and a Monetary Order?

### Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent and a "Proof of Service" form stating that the Notice was served in person to the tenant on April 10, 2014 at approximately 7:30 p.m. in front of a witness.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the Act and their rights in response. The landlord, has the burden to prove the tenant was served a Notice to End Tenancy and I accept that this occurred.

### Analysis

This is an application to proceed by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act. The Fact Sheet containing directions and the requirements to apply for a resolution under this section indicates 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

Submitted into evidence was a tenancy agreement showing that the landlord signed the agreement on “AUG 29, 2014”.

The agreement also showed that one of the two co-tenants signed the tenancy agreement on “AUG 29, 2014”

I find that the tenancy agreement submitted by the landlord in support of this Application for a Direct Request proceeding with is not a compliant tenancy agreement under section 13 of the Act. Section 13 sets out the mandatory terms that must be included within the tenancy agreement. The agreement must be signed and dated by both the landlord and the tenant.

However, I do not accept that this document was actually signed on the date shown. I find that this is impossible being that the date shown for signing is in the future.

Consequently I find that this matter may not proceed by way of direct proceeding due to the landlord's failure to submit a valid tenancy agreement as required to use the Direct Request process. I find that it is therefore necessary to dismiss this application

The landlord is at liberty to make an application to pursue this matter through a regular teleconference hearing that would permit verbal testimony to be given regarding the specific terms of the tenancy agreement between the parties.

I hereby dismiss this application with leave to reapply for a participatory hearing.

### **Conclusion**

The landlord is not successful in the Direct Request application, and it is dismissed with leave to reapply for a participatory hearing.

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 15, 2014

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Residential Tenancy Branch

