



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR REALTY MANAGEMENT SERVICES INC.
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 .

Preliminary Issue

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 16, 2014, the landlord served the tenant with the Notice of Direct Request by posting it on the tenant's door. Section 39 of the Residential Tenancy Policy Guidelines provides states that the landlord must prove service on the tenant of the *notice of direct request* package. This package contains copies of:

- the Notice of Direct Request;
- the Landlord's Application for Dispute Resolution;
- the 10-Day Notice to End Tenancy;
- the Tenancy Agreement;
- proof of service of the 10-Day Notice to End Tenancy; and
- any evidence submitted with the application.

The landlord's notice of direct request package contains all of the above items and a proof of service form which specifies that the notice of direct request package must be

served by registered mail, in person; or by posting it on the tenant's door or in an equally conspicuous place.

Sections 88 and 89 of the Act determine the method of service for documents. The landlord 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 did not serve the hearing documents 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.

Note: When the Notice of Direct Request Proceeding package is only **posted on a tenant's door**, a monetary order will not be issued through the direct request process.

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 request for an Order of Possession, has been adequately served under the Act. Therefore, only the matter of whether or not the landlord is entitled to an Order of Possession will be determined and the monetary order must be dismissed with leave to reapply.

Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents only for the purpose of requesting an Order of Possession and not served properly.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and a monetary Order for rental arrears pursuant to 55 and 67 of the *Residential Tenancy Act (the Act)*?

Background and Evidence

The landlord submitted a copy of the *Notice to End Tenancy for Unpaid Rent* and a “*Proof of Service*” form stating that this Notice was served to the tenant in person on June 2, 2014 at 2:38. I find that the landlord served the 10-Day Notice in accordance with the Act.

Submitted into evidence were two pages of a tenancy agreement. The agreement apparently contained 44 terms but the document was not complete and the section with paragraphs 8 to 31 was not submitted.

This is an application to proceed by way of Direct Request Proceeding, pursuant to section 74(2)(b) and 55(4) of the Act. I find that the landlord did not follow directions published on the fact sheet, which states that the following mandatory documentation must accompany the Application:

- Copy of the 10 Day Notice to End Tenancy
- Copy of the Tenancy Agreement (My emphasis)
- Proof of Service of the 10 Day Notice to End Tenancy

I find that because the application for the direct Request Proceeding only included a portion of the tenancy agreement, this matter may not proceed by way of direct proceeding and it is 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 terms of the tenancy agreement between the parties.

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 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: July 08, 2014

Residential Tenancy Branch

