



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Northern Property Limited Partnership  
and [tenant name suppressed to protect privacy]

## **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 landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 6, 2014 the landlord served each tenant with the Notice of Direct Request Proceeding by posting the documents on the rental unit door. Section 90 of the *Act* states a document posted on the rental unit door is deemed served on the 3<sup>rd</sup> day after it is posted.

Section 89(1) of the *Act* stipulates that an application for dispute resolution (such as a monetary claim), when required to be given to one party by another, must be given in one of the following ways:

- (a) By leaving a copy with the person;
- (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).

Section 89(2) states that an application for dispute resolution by a landlord seeking an order of possession must be given to the tenant in one of the following ways:

- (a) By leaving a copy with the person;
- (b) By sending a copy by registered mail to the address at which the person 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).

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 6, 2014 at 3:22 p.m. the landlord served each tenant with the Notice of Direct Request Proceeding by posting the documents on the rental unit door. Section 90 of the *Act* states a document posted on the rental unit door is deemed served on the 3<sup>rd</sup> day after it is posted.

Based on the written submissions of the landlord, I find that each tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*, for the purposes of an order of possession.

However, in regard to the landlord's monetary claim Section 89 does not allow a landlord to post the documents to the rental unit door and as such, I find the landlord has failed to serve the tenant pursuant to the *Act* for the purposes of the monetary claim. Therefore, I dismiss the portion of the landlord's Application seeking a monetary order with leave to reapply.

#### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent, pursuant to Sections 46 and 45 of the *Act*.

#### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement with a differently named landlord than the landlord who has submitted this Application which was signed by the tenants on February 4, 2012 for a month to month tenancy beginning on February 4, 2012 for the monthly rent of \$815.00 due on the 1<sup>st</sup> of each month and a security deposit of \$407.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 9, 2014 with an effective vacancy date of September 19, 2014 due to \$3,375.87 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of May, June, July, August, and September and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on September 9, 2014 at 10:42 a.m. and that this service was witnessed by a third party.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

### Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork all documents submitted must be complete and clear.

As the landlord named in the Application for Direct Request is different than the landlord named in the tenancy agreement and the landlord has provided no evidence as to why the two should be different I find that this Application is not suitable to be adjudicated through the Direct Request process, as it is submitted.

### Conclusion

Based on the above, I dismiss the landlord's Application for Direct Request with leave to reapply either through the participatory hearing process or through the Direct Request process providing sufficient evidence to meet the above requirements.

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: October 10, 2014

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Residential Tenancy Branch

