



Dispute Resolution Services

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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 Act, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 18, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding by way of Registered Mail. Section 90 of the Act provides that a document served in this manner is deemed to have been received on the 5th day after service. Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of the residential tenancy agreement which was signed by the parties on July 12, 2014, indicating that the tenants are obligated to pay \$1,700.00 in rent in advance on the second day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on October 29, 2014, with a stated effective vacancy date of November 08, 2014, for \$3,400.00 (\$1,700.00 + \$1,700.00) in unpaid rent effective, respectively, on September 02 + October 02, 2014, and
- A copy of the Proof of Service of the Notice to End Tenancy which shows by way of a ticked box, that the landlord served the notice to end tenancy on the tenants by "Leaving a copy with an adult who apparently lives with the tenant" on October

29, 2014. However, in the Special Details section of the Proof of Service of the Notice to End Tenancy the landlord has further documented as follows:

left notice with baby-sitter, who confirmed will see tenants the night of notice served.

Analysis

I am unable to conclude that the 10 day notice was served pursuant to the requirements of section 88 of the Act which addresses **How to give or serve documents generally**, or in compliance with the options clearly set out on the Proof of Service of the Notice to End Tenancy. Specifically, I am unable to find that a baby-sitter can be considered to be “an adult who apparently lives with the tenant.” In the result, the landlord’s application must be dismissed with leave to reapply.

Conclusion

The landlord’s application is hereby dismissed 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: November 26, 2014

Residential Tenancy Branch

