



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 single signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 22, 2015 the landlord served the tenants with the Notice of Direct Request Proceeding by posting the notice on the door of the rental unit. The proof of service document states, among other things, the following:

1. You must serve these documents to each respondent individually and complete a separate *Proof of Service Notice of Direct Request Proceeding* for each respondent; and
2. Attaching a copy on the door or other noticeable place. **Do not use this method of service if request a Monetary Order.**

As the landlords have submitted only one Proof of Service Notice of Direct Request Proceeding document that states both were served by posting the Notice on the door I find the landlords have failed to provide sufficient evidence to establish if both tenants were served or not. Further, since the landlords are seeking a monetary order they were required to use a different method of service than posting it on the door.

Section 89(1) of the *Act* states an application for dispute resolution, 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; or
- (d) If the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

Section 89(2) states an application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] 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; or
- (d) By attaching a copy to a door or other conspicuous place at the address at which the tenant resides.

Section 89(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be attached to the door of the rental unit only when considering the issuance of an Order of Possession for the landlord. As the landlords served the Notice of Direct Request Proceeding in accordance with section 89(2)(d) of the *Act*, I would only normally be able to adjudicate that part of the landlords' application that asks for an Order of Possession.

However, as the landlords have failed to provide sufficient evidence of the proper service of the Notice of Direct Request Proceedings to either tenant as noted above, I find the landlords have failed to prove service of the proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Conclusion

Based on the above, I dismiss the landlords' Application for Dispute Resolution by Direct Request 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: September 24, 2015

Residential Tenancy Branch

