



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DIRECT REQUEST DECISION**

### Dispute Codes

OPR, MNR, MNSD, FF

### Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 19, 2009, the landlord personally served the tenant with the Notice of Direct Request Proceeding. Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*, are whether the landlord is entitled to:

- an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent dated February 1, 2009;
- a monetary Order for rental arrears owed;
- to retain the security deposit being held in trust for the tenant, and;
- reimbursement for the cost of the Application for Dispute Resolution;

I have reviewed all documentary evidence.

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

The landlord submitted a copy of the Application for Dispute Resolution which provided that the Notice to End Tenancy was served, "February 1, 2009, Delivered"

The purpose of serving documents under the *Act* is to notify the person being served of their failure to comply with the *Act* and of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach and the landlord has the burden of proving that the tenant was served with the 10 day Notice to End Tenancy.

### Analysis

The landlord has supplied information purporting to be proof of service of the Notice to End Tenancy. However, I find that the data regarding the manner of service of the Ten Day Notice to be insufficient as it does not identify exactly how the document was served. Accordingly, I am not able to determine that the tenant was properly served with the 10 day Notice to End Tenancy.

In addition, I note that the landlord has supplied inadequate details regarding the monetary claim. The Application indicated that the tenant was in arrears for \$600.00 but does not identify what this debt represents and this conflicts with data contained on the Ten Day Notice which shows that \$900.00 was owed. No details about partial payments were provided.

In the "Details of the Dispute" section of the Application, the landlord states, "\$50.00 2 people living in apartment".. The material relevance of this statement is unclear.

I also note that the Ten-Day Notice for Unpaid Rent issued by the landlord was dated February 1, 2009. When rent is due on or before the first day of the month, the tenant is not in arrears until the second day of the month. If the Notice pertained to rent owed for the month of February, then the Notice would

not be valid. On the other hand, if the \$900.00 debt shown on the Notice related to a previous month, this has not been adequately explained.

Given the above, I find that there is insufficient support for the monetary amount being claimed, that the landlord has failed to prove service of the Ten-Day Notice and that the Ten-Day Notice itself is completely invalid.

**Conclusion**

I hereby dismiss this application in its entirety without leave to reapply.

March 2009

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Date of Decision

Dispute Resolution Officer