



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes - OPR, MNR, FF

Introduction

This matter was conducted 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 due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 1, 2009 the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail. The submitted receipt shows that one letter was sent to both tenants.

The purpose of serving documents under the *Act* is to notify the individual persons being served of their breach and notification of their individual rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach through the Direct Request process; the landlord has the burden of proving that the tenants were individually served with the Notice of the Direct Request Proceeding.

Analysis

Since the Proof of Service of the Notice of Direct Request Proceeding is addressed to both tenants it is not possible to determine if one or the other or both tenants received notification of the Direct Request Proceeding

With conflicting evidence of proof of service of the Notice of Direct Request Proceeding I find that the landlord has failed to establish that the tenants were served individually with the Notice.

Conclusion

Having found that the landlord has failed to prove service of the Notice of Direct Request Proceeding I have determined that this application be 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: October 07, 2009.

Dispute Resolution Officer