



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes OPR, MNR

### Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (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.

As to Proof of Service of the Notice of Direct Request Proceeding, the landlord provided a document which declares that the landlord served the tenant with the Notice via registered mail, but the document did not state to which address the document was delivered.

### Proof of Service of the Direct Request Proceeding

The landlord submitted a copy of the Direct Request Application, but did not submit proof such as customer receipt with a completed address to which the document was delivered.

The purpose of providing the Canada Post receipts and customer receipt is to provide information for a Direct Request proceeding to determine that the tenant was served with the Notice of the proceeding as declared by the landlord. The landlord has the burden of proving that the tenant was served with the Notice of the Direct Request proceeding.

### Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on October 27, 2004, indicating a monthly rent of \$530.00 due on the first day of the month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 5, 2011, with a stated effective vacancy date of April 15, 2011, for \$600.00 in unpaid rent; and
- Notices of Rent Increase from \$530.00 to \$540.00, from \$540.00 to \$550.00, from \$550.00 to \$575.00 and \$575.00 to 590.00.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay rent due for April 1, 2011, in the amount of \$600.00; however the landlord failed to establish that the tenant was obligated to pay rent in the amount of \$600.00.

### Analysis

In the absence of evidence of proof of service of the Notice of the Direct Request proceeding being sent to the tenant's address at which she resides, I find the landlord has failed to establish that the tenant was served with the Notice of the proceeding.

Even if I had found that the landlord had proven service of the proceeding, in the alternative, I would have found that the landlord did not establish that the 10 Day Notice to End Tenancy was valid as the landlord failed to submit proof of valid rent increases which complied with the Residential Tenancy Act, namely the document establishing that current rent was \$600.00.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the Tenant was served with the 10 day Notice to End Tenancy which meets the form, content, and service under sections 52 and 89 of the *Residential Tenancy Act*.

I find that the 10 Day Notice issued by the landlord does not meet the requirements of the Act as the rent increase raising the rent to \$600.00 was not provided. Therefore the Notice is not enforceable as the rent listed as being due is invalid.

Based on the above I find that this application does not meet the requirements for the Direct Request process and I hereby dismiss the landlord's application without leave to reapply.

### Conclusion

**I HEREBY ORDER** that the 10 Day Notice to End Tenancy issued for Unpaid Rent and dated April 5, 2011, is without force or effect.

**I HEREBY DISMISS** the landlord's application, without 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: April 26, 2011.

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Residential Tenancy Branch