



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of an *ex parte* 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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 2, 2017, the landlords placed the Notices of Direct Request Proceeding in the tenants’ mailbox. The landlord had a witness sign the Proofs of Service of the Notices of Direct Request Proceeding to confirm this service.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proofs of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on February 1, indicating a monthly rent of \$1,800.00, due on the first day of the month for a tenancy commencing on January 1, 2016;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 23, 2017, and personally served to the tenants on June 23, 2017, with a stated effective vacancy date of July 3, 2017, for \$1,015.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenants at 5:00 pm on June 23, 2017. The 10 Day Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

### Analysis

In this type of matter, the landlord must prove they served the tenants the Notices of Direct Request proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit service by, leaving a copy with the person, sending a copy by registered mail to the address at which the person resides, by leaving a copy with an adult who apparently resides with the tenant or by attaching a copy to the door or other conspicuous place at the address at which the tenant resides.

I find that the landlords have served the Notice of Direct Request Proceeding by leaving it in the mailbox of the rental unit, which is not a method of service that is in accordance with section 89 of the *Act*. Since I find that the landlords have not served the tenants with notice of this application in accordance with section 89 of the *Act*, the landlords' application for an Order of Possession based on unpaid rent and a Monetary Order is dismissed, with leave to reapply.

### Conclusion

I dismiss the landlords' application, 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: July 05, 2017

---

Residential Tenancy Branch