



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPRM-DR

### 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 landlord for an Order of Possession based on unpaid rent and a Monetary Order.

### 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 a residential tenancy agreement which was signed by the landlord and Tenant K.H. on June 20, 2009, indicating a monthly rent of \$575.00, due on the first day of each month for a tenancy commencing on July 1, 2009;
- A copy of a Notice of Rent Increase form showing the rent being increased from \$716.00 to a monthly rent amount of \$736.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 5, 2018 for \$763.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides 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 on the stated effective vacancy date of January 15, 2018;

- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally handed to the tenant's son in law at 4:30 pm on January 5, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

In this type of matter, the landlord must prove they served the tenants with the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*.

I find that the landlord has not provided a copy of the Proofs of Service of the Notices of Direct Request Proceeding to establish service of the Notices of Direct Request Proceeding documents to the tenants.

In the place of the Proofs of Service of the Notices of Direct Request Proceeding, I find that the landlord has submitted a second copy of the Proof of Service Notice to End Tenancy form which details the service of the 10 Day Notice on January 5, 2018.

I find that I am not able to confirm service of the Notice of Direct Request to the tenants, which is a requirement of the Direct Request process, and for this reason the landlord's application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid rent 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: January 19, 2018

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Residential Tenancy Branch