



# 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 landlords for an Order of Possession based on unpaid rent and a monetary Order.

The landlords did not submit into evidence any Proof of Service of the Notices of Direct Request Proceeding. All of the 4 pdf files uploaded under Proof of Service Notice of Direct Request Proceeding and Proof Notice was Served are identical blank Tenancy Agreement forms. I have reviewed all of the files uploaded by the landlords and nowhere in any of the files is there any evidence that the Notice of Direct Request Proceeding was served.

### 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:

- 6 separately scanned pages of a copy of a residential tenancy agreement signed by the landlord and tenants on November 12, 2017, indicating a monthly rent in

the amount of \$900.00, due on the 15th day of the month for a tenancy commencing on November 12, 2017;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated January 23, 2018 with a stated effective vacancy date of February 2, 2018, for \$2,250.00 in unpaid rent; and
- A Proof of Service of the 10 Day Notice dated January 23, 2018 indicating that the 10 Day Notice was attached to a door or other conspicuous place at the tenant's residence on January 23, 2018 in the presence of a third party witness; and
- A Direct Request Worksheet showing the rent owing for this tenancy.

### Analysis

Direct request proceedings are *ex parte* proceedings. In an *ex parte* proceeding, the opposing party is not invited to participate in the hearing or make any submissions. As there is no ability of the tenants to participate, there is a much higher burden placed on landlords in these types of proceedings than in a participatory hearing. This higher burden protects the procedural rights of the excluded party and ensures that the natural justice requirements of the Residential Tenancy Branch are satisfied.

The onus is on the landlord to present evidentiary material that 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 all of 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*.

The landlords have not submitted a Proof of Service of Notice of Direct Request Proceeding. The files uploaded under that title are blank pdf Tenancy Agreement files. Nowhere in any of the files uploaded by the landlords is there a completed Proof of Service of Notice of Direct Request Proceeding.

I find that I am not able to confirm service of the Notice of Direct Request to the tenant, which is a requirement of the Direct Request process. Consequently I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application is 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: March 9, 2018

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Residential Tenancy Branch