



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPUM-DR, FFL

### 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 June 6, 2018, the landlords sent the tenants the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlords provided one copy of a Canada Post Customer Receipt containing a Tracking Number to confirm this mailing.

### Issue(s) to be Decided

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

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlords to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such material does not lend itself to ambiguity or give rise to issues that may need clarification beyond the purview of a Direct Request Proceeding. If the landlords 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 landlords must prove that they served each tenant 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 landlords have only provided one registered mail receipt for both of the Proofs of Service of the Notices of Direct Request Proceedings. The landlords have not indicated on the registered mail receipt which tenant was the recipient of the Notice of Direct Request Proceeding documents.

I find that I am not able to determine which of the tenants was served with the Notice of Direct Request Proceeding and, accordingly, I cannot confirm service of the Notice to either of the tenants.

Therefore, the landlords' application for an Order of Possession and a Monetary Order based on unpaid rent and utilities is dismissed with leave to reapply.

As the landlords were not successful in this application, I find that the landlords are not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I dismiss the landlords' application for an Order of Possession and a Monetary Order for unpaid rent and utilities with leave to reapply.

I dismiss the landlords' application to recover the filing fee paid for this 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: July 05, 2018

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Residential Tenancy Branch