



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-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 one signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 26, 2018, the landlords personally served the tenants the Notice of Direct Request Proceeding. The landlords had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service.

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 landlord 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 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 landlords must prove they served each of the tenants with the Notices of Direct Request proceeding as per subsections 89 (1) and (2) of the *Act*, and in a manner considered necessary as per section 71(2) (a) of the *Act*.

On the top of the Proof of Service of the Notice of Direct Request Proceeding, the wording reads as follows: "You must serve these documents to each respondent individually and complete a separate Proof of Service Notice of Direct Request Proceeding for each respondent"

I find that the landlords have included both tenants' names on one Proof of Service form. The landlords have not indicated if each tenant was served individually, and if not, which of the respondents was personally handed the documents.

I find that I am unable to confirm service of the Notice of Direct Request Proceeding to either of the tenants, and for this reason the landlords' application for an Order of Possession and a Monetary Order for unpaid rent 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 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 30, 2018

Residential Tenancy Branch