



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes OPRM – DR, FFL

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 21, 2018 at 4:30 the landlord served the tenants with the Notice of Direct Request Proceeding by hanging it on the door at the front entrance.

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork, all documents submitted must be complete and clear.

The Proof of Service document instructs that landlord must serve the Notice of Direct Request Proceeding documents to each respondent individually and complete a separate Proof of Service Notice of Direct Request Proceeding for each respondent. The landlord has submitted only one Proof of Service document and does not specify on it anywhere that they served a separate package to each of the tenants individually.

In addition, directly under the line where the landlord has checked off that they attached a copy of the Notice of Direct Proceeding to the door of the rental unit (in bold type) the form states: "Do not use this method of service if requesting a Monetary Order." In this application the landlord is asking for a monetary order for unpaid rent.

As the landlord has failed to provide separate Proof of Service documents for each tenant, I cannot determine who if either one of the tenants has been served. Furthermore, since the landlord is seeking a Monetary Order and they chose a method

of service not allowed when seeking a Monetary Order I find the landlord has failed to established that they have served each tenant individually with the Notice of Direct Request Proceeding.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent and recovery of the filing fee for this Application, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Conclusion

As the landlord has failed to establish that they served each or either of the tenants with the Notice of Direct Request Proceedings I dismiss the landlord's Application for Dispute Resolution in its entirety 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: November 28, 2018

Residential Tenancy Branch