



Dispute Resolution Services

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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 landlord did not submit the signed Proof of Service of the Notice of Direct Request Proceeding form. The landlord has submitted a receipt from Canada Post and a Canada Post tracking slip indicating that they sent registered mail on November 19, 2018. However, the landlord has not submitted the required Proof of Service Notice of Direct Request Proceeding form to prove service of the Direct Request Proceeding documents.

Based on the written submissions of the landlord, and in accordance with section 89 of the Act, I am unable to find that the tenant has been duly served with the Direct Request Proceeding documents.

Issues 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?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the Act?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

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.

In this type of matter, the landlords must prove they served the 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. The landlord herein has submitted a receipt from Canada Post and a Canada Post tracking slip indicating that they sent registered mail on November 19, 2018. However, the landlord has not submitted the required

Proof of Service Notice of Direct Request Proceeding form to prove service of the Direct Request Proceeding documents. Without the required Proof of Service Notice of Direct Request Proceeding form, I am unable to find that the landlord has served the tenant with the notice of this application in accordance with subsection 89(1) of the *Act*. Accordingly, I dismiss the landlord's application for an Order of Possession and a monetary Order with leave to reapply.

As the landlord was not successful in this application, I dismiss the landlord's application to recover the \$100.00 filing fee paid for this application without leave to reapply.

Conclusion

The landlord's application for an Order of Possession and a monetary Order is dismissed with leave to reapply.

The landlord's application to recover the \$100.00 filing fee paid for this application is dismissed 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: November 30, 2018

Residential Tenancy Branch