



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 landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 31, 2019, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post receipt containing the Tracking Number to confirm this mailing.

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*?
- Is the landlord 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 the tenant with the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as

per sections 89 (1) and (2) of the *Act* which permit service “by sending a copy by registered mail to the address at which the person resides...” The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the tracking number provided by the landlord on the Proof of Service Notice of Direct Request Proceeding is for a package sent by Canada Post’s Regular Parcels mailing. Canada Post’s Online Tracking System shows that a signature was not required for the delivery of this mailing to confirm delivery to the person named as the respondent. As such, I find the Regular Parcels mailing does not meet the definition of registered mail as defined under the *Act*.

Since I find that the landlords have not served the tenant with notice of this application in accordance with section 89 of the *Act*, I dismiss the landlords’ application for an Order of Possession and a Monetary Order for unpaid rent 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

The landlords’ application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

The landlords’ application to recover the 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: February 05, 2019

Residential Tenancy Branch