



# 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 March 1, 2019, the landlords personally served Tenant A.P. the Notice of Direct Request Proceeding.

The landlords provided a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm a package was sent to Tenant A.P. on March 1, 2019,

The landlords did not provide Proofs of Service of the Notices of Direct Request Proceeding to establish that the other three tenants named as respondents were served the Notice of Direct Request Proceeding documents.

### 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 evidentiary material does not lend itself to ambiguity or give rise to issues that may need further 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 tenants with the Notices of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*.

On the Proof of Service of the Notice of Direct Request Proceeding, I find that there is no signature of Tenant A.P. as the person receiving the documents. There is also no signature of a witness who observed the landlords personally served the Notice of Direct Request Proceeding to Tenant A.P.

For this reason, I am not able to confirm the Notice of Direct Request Proceeding documents were personally served to Tenant A.P. in accordance with section 89 of the *Act*.

I note that the landlords submitted a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm a package was sent to Tenant A.P. on March 1, 2019. However, the Proof of Service of the Notice of Direct Request Proceeding form does not indicate that the Notice of Direct Request Proceeding documents were sent by registered mail. I find that I am not able to confirm what documents were included in the registered mailing sent on March 1, 2019.

For this reason, I am not able to confirm service of the Notice of Direct Request to Tenant A.P. by registered mail in accordance with section 89 of the *Act*.

Finally, the landlords have not submitted any Proofs of Service of the Notices of Direct Request Proceeding to establish service of the Notice of Direct Request Proceeding documents to the other three tenants named as respondents.

As I am not able to confirm service of the Notice of Direct Request Proceeding documents to any of the tenants named as respondents, which is a requirement of the Direct Request Process, 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: March 08, 2019

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Residential Tenancy Branch