



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR-DR

### 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 landlord for an Order of Possession based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that in May 2019, the landlord served the tenant the Notice of Direct Request Proceeding by handing the documents to Person A.N. The landlord had Person A.N. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service.

### 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*?

### Analysis

In this type of matter, the landlord 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*.

Section 89(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be left with an adult who apparently resides with the tenant. Section 89(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be left with an adult who apparently resides with the tenant, only when considering the issuance of an Order of Possession for the landlord.

The Proof of Service of the Notice of Direct Request Proceeding that was submitted by the landlord indicates service to Person A.N., but there is no indication or

documentation in the evidence that the person who received the documents was an adult, or that they apparently reside with the tenant.

I find that I am not able to confirm service of the Notice of the Direct Request Proceedings in compliance with section 89 of the *Act* and for this reason the landlord's application for an Order of Possession for unpaid rent is dismissed with leave to reapply.

### Conclusion

I dismiss the landlord's application for an Order of Possession for unpaid rent 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: May 28, 2019

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Residential Tenancy Branch