



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding A & T MANAGEMENT  
CORP and [tenant name suppressed to protect  
privacy]

## **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 August 8, 2019, the landlords personally served the tenant the Notice of Direct Request Proceeding. The landlords had the tenant and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlords and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on August 8, 2019.

### 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*?

### Background and Evidence

The landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which names a landlord who is not one of the applicants and was signed by the tenant on June 29, 2012, indicating a monthly rent of \$600.00, due on the first day of each month for a tenancy commencing on June 29, 2012;

- A copy of three Notice of Rent Increase forms showing the rent being increased from \$600.00 to the current monthly rent amount of \$656.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 22, 2019, for \$1,720.00 in unpaid rent. The 10 Day Notice provides that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of August 5, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 5:20 pm on July 22, 2019; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### 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.

Policy Guideline #39 on Direct Requests provides the following information:

When making an application for dispute resolution through the direct request process, the landlord must provide copies of:

- The written tenancy agreement;
- Documents showing changes to the tenancy agreement or tenancy, such as rent increases, or **changes to parties or their agents**;
- The Direct Request Worksheet (form RTB-46) setting out the amount of rent or utilities owing which may be accompanied by supporting documents such as a rent ledger or receipt book;
- The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (this is often considered proof that the tenant did not pay rent); and,
- Proof that the landlord served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and, if applicable, the Written Demand to Pay Utilities.

I have reviewed all documentary evidence and I find that the landlord's name on the tenancy agreement does not match either of the landlords named on the Application for Dispute Resolution.

As this is an ex parte proceeding that does not allow for any clarification of the facts, I have to be satisfied with the documentation presented. The discrepancy in the landlord's name raises a question that cannot be addressed in a Direct Request Proceeding.

For this reason, 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: August 09, 2019

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Residential Tenancy Branch