



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR – DR OPUM – DR

Introduction

This application has been made via the Direct Request Proceeding; an ex parte process pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*.)

The landlord has applied requesting an order of possession and monetary order based on unpaid rent and utilities.

The landlord submitted a single proof of service document for the two respondents which declares that on September 28, 2019 the landlord served the tenants notice of the direct request proceeding by registered mail to the rental unit address. However, the landlord provided a copy of a Canada Post receipt and tracking number for each respondent, as confirmation of service to each tenant.

Based on the written submissions of the landlord I find that each tenant has been served the proceeding documents in accordance with section 89(2)(b) of the *Act*.

In accordance with section 90(a) of the *Act* I find that the tenants is are deemed served with notice of the direct request proceeding effective fifth day after mailing; October 03, 2019.

Issue(s) to be Decided

Is the landlord entitled to an order of possession based on unpaid rent and utilities?

Is the landlord entitled to a monetary order based on unpaid rent and utilities?

Background and Evidence

The landlord submitted the following documents:

- A copy of a residential tenancy agreement which was signed by the landlord and one individual who is not named as a respondent. The individual who has signed the tenancy agreement as tenant has the same first name as one of the respondents, and a different surname. The second respondent has not signed the tenancy agreement.

Analysis

The Direct Request Proceeding is an ex parte process. The onus is on the landlord applicant to present evidentiary material that does not lend itself to ambiguity or give rise to issues that may require further clarification.

The landlord has named two respondents. The tenancy agreement supplied as evidence does not include signatures by either of the two respondents. I cannot assume that the individual who signed the tenancy agreement is one of the named respondents.

Therefore, I find that the application is dismissed with leave to reapply.

I note that a proof of service form for the Notice is not apparent.

Conclusion

The application is dismissed 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: October 09, 2019

Residential Tenancy Branch