



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-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 and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding (the Notice) which declares that on December 13, 2019, the landlord sent the tenant the Notice by registered mail to the rental unit. The signature on this document is dated December 14, 2019. The landlord did not provide a copy of the Canada Post Customer Receipt; however, they did prepare a page attached to the Notice that bears the image of a tracking number label.

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*?

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 landlord must prove they served the tenant with the Notice all the required inclusions as indicated on the Notice as per section 89 of the Act.

I have reviewed all documentary evidence and in accordance with sections 89 and 90 of the Act, I find I cannot confirm that the tenant was served with the Notice five days after it was sent by registered mail. The definition of registered mail in the Act provides for “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.” The attached page provided by the landlord shows “Signature option was not requested.” Without confirmation of delivery, I find the Notice was not served in line with section 89 of the Act.

As I am not able to confirm service of the Notice to the tenant, which is a requirement of the Direct Request Process, the landlord’s application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

Conclusion

I dismiss the landlord’s application for an Order of Possession and a Monetary Order 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: December 17, 2019

Residential Tenancy Branch