



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPUM-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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on January 16, 2020, the landlords sent each of the tenants the Notice of Direct Request Proceeding. The landlords provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings.

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 this type of matter, the landlords 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 subsections 89 (1) and (2) of the *Act* which permit service “by sending a copy by registered mail to the address at which the person resides or, by sending a copy by registered mail to a forwarding address provided by the tenant”

Tenant J.K.

The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the Tracking Number provided by the landlord on the Proof of Service of the Notice of Direct Request Proceeding for Tenant J.K. is for a package sent by Canada Post's Xpress Post mailing, which may or may not require a signature from the individual to confirm delivery to the person named as the respondent.

In this case, Canada Post's Online Tracking System does not indicate whether a signature was required for the delivery of this Xpress Post mailing. As such, I find I cannot determine whether it meets the definition of registered mail as defined under the *Act*.

Numbered Company Tenant

I find that the address indicated on the Proof of Service of the Notice of Direct Request Proceeding for the Numbered Company Tenant is not the rental address established in the tenancy agreement. There is also no indication as to whether this address was provided to the landlords for service of documents.

I find I am not able to confirm service of the Notices of Direct Request Proceeding to either of the tenants, which is a requirement of the Direct Request process.

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

The landlords' application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

The landlords' application to recover the filing fee paid for this application is dismissed 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: January 23, 2020

Residential Tenancy Branch