



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

The landlords submitted a copy of a Canada Post Customer Receipt containing the Tracking Number to confirm a package was sent to the tenant by Xpress Post on January 30, 2020.

### 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 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 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 section 89 of the *Act*.

I note that the landlords submitted a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm a package was sent to the tenant on January 30, 2020. However, the landlords have not provided a copy of the Proof of Service of the Notice of Direct Request Proceeding form which would include a landlord statement establishing service of the Notice of Direct Request Proceeding documents to the tenant. Without this accompanying statement, I find that I am not able to confirm what documents were included in the Xpress Post mailing sent on January 30, 2020.

I also note that 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 Canada Post’s Xpress Post mailings may or may not require a signature to from the individual to confirm delivery to the person named as a respondent. In this case, Canada Post’s Online Tracking System shows that a signature was not required for the delivery of this Xpress Post mailing and, as such, it does not meet the definition of registered mail as defined under the *Act*.

I find that I am not able to confirm service of the Notice of Direct Request to the tenant, which is a requirement of the Direct Request process, and 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: February 05, 2020

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Residential Tenancy Branch