



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 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 March 27, 2020, the landlords sent the tenant the Notice of Direct Request Proceeding by e-mail. The landlords provided a copy of an e-mail sent from the landlords to the tenant on March 29, 2020 containing four PDF attachments: a statement, a Direct Request Worksheet, a 10 Day Notice, and a lease.

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

The Notice of Dispute Resolution Proceeding Package served on the tenant(s) must include:

- **the Notice of Dispute Resolution Proceeding which includes the Application for Dispute Resolution;**
- the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (form RTB-30);
- the written tenancy agreement;
- any written demand to pay utilities, if applicable;
- **the Proof of Service Notice to End Tenancy and Written Demand to Pay Utilities (form RTB-34);**
- the Direct Request Worksheet (form RTB-46); and
- any evidence submitted with the application

I note that the landlords submitted an e-mail showing the landlords sent the tenant the 10 Day Notice, the tenancy agreement, the Direct Request Worksheet, and a statement.

However, the landlords have not provided any evidence to demonstrate they served the tenant a copy of the Notice of Direct Request Proceeding or a Proof of Service Notice to End Tenancy, which is a requirement of the Direct Request process as detailed in Policy Guideline #39.

As I find the landlords have not served the tenant with the complete Notice of Direct Request Proceeding package including all supporting documents, 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: April 02, 2020

Residential Tenancy Branch