



# Dispute Resolution Services

Page: 1

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 landlord submitted a Proof of Service of the Notice of Direct Request Proceeding which declares that on April 9, 2020, the landlord served Tenant J.B. the Notice of Direct Request Proceeding.

The landlord submitted a second Proof of Service of the Notice of Direct Request Proceeding which declares that on April 9, 2020, the landlord sent Tenant A.B. the Notice of Direct Request Proceeding by e-mail to Tenant A.B.'s e-mail address.

### 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*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Analysis

In this type of matter, the landlord must prove they served the tenants 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 either leaving a copy

with the person, sending a copy by registered mail to the address at which the person resides, leaving a copy with an adult who apparently resides with the tenant; or attaching a copy to the door or other conspicuous place at the address at which the tenant resides.

On the first Proof of Service of the Notice of Direct Request Proceeding, the landlord has not indicated whether they served the Notice of Direct Request Proceeding to Tenant J.B. in person, on the door, by registered mail, or by a different method of service. I find I am not able to determine the method of service for Tenant J.B.

The Residential Tenancy Branch's Director's Order on e-mail service dated March 30, 2020 provides that a document required to be served in accordance with sections 88 and 89 of the *Act* may be sent by e-mail and is considered received if:

- The person acknowledges having received the e-mail;
- The person replies to the e-mail; or
- The sender and recipient e-mail addresses have been routinely used for tenancy matters.

On the second Proof of Service of the Notice of Direct Request Proceeding, the landlord has indicated they sent the Notice of Direct Request Proceeding to Tenant A.B. by e-mail. However, I find that the landlord has not provided a copy of the outgoing e-mail to confirm the documents were sent.

The landlord has also not submitted a copy of an e-mail reply from Tenant A.B. or an acknowledgement from Tenant A.B. that they received the e-mail. I note that the landlord has submitted a copy of eleven e-mails exchanged between the landlord and Tenant J.B. between April 1, 2020 and April 3, 2020. However, the landlord has not submitted a copy of any e-mails sent to or received from Tenant A.B. to demonstrate that Tenant A.B.'s e-mail address was regularly used for tenancy issues.

For these reasons, I find I am not able to determine whether the landlord's e-mail service to Tenant A.B. can be considered received in accordance with the Director's Order.

As I am not able to confirm service of the Notice of Direct Request Proceeding to either of the tenants, 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.

As the landlord was not successful in this application, I find that the landlord not is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid rent with leave to reapply.

I dismiss the landlord's 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 16, 2020

---

Residential Tenancy Branch