



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, 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 two copies of a signed Proof of Service Notice of Direct Request Proceeding which declares that on November 25, 2020, the landlords personally served the occupant, Person K.A., the Notice of Direct Request Proceeding. The landlords had Person K.A. and a witness sign the Proof of Service Notice of Direct Request Proceeding forms to confirm this service.

The landlords have not submitted a copy of a Proof of Service Notice of Direct Request Proceeding form to establish service of the Notice of Direct Request Proceeding documents to Tenant J.W.

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 tenants with the Notice of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*.

The landlords have submitted two copies of a Proof of Service Notice of Direct Request Proceeding indicating they served the occupant, Person K.A. the Notice of Direct Request Proceeding.

However, I find that Person K.A. is not listed on the tenancy agreement as a tenant and has not signed the tenancy agreement. For this reason, I find cannot proceed with the portion of the landlords' application naming Person K.A. as a respondent.

I also find the landlords have not provided a copy of the Proof of Service Notice of Direct Request Proceeding form to establish service of the Notice of Direct Request Proceeding to Tenant J.W. I find I am not able to confirm service of the Notice of Direct Request Proceeding to Tenant J.W., which is a requirement of the Direct Request Process.

For these reasons, 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: December 15, 2020

Residential Tenancy Branch