



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes   OPRM-DR

### 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 and a monetary order for unpaid rent.

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 Landlord 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*.

Policy Guideline #39 provides assistance when determining whether or not a landlord has met the requirements of the Direct Request process. It states:

*After the Notice of Dispute Resolution Proceeding Package has been served to the tenant(s), the landlord must complete and submit to the Residential Tenancy Branch a Proof of Service Notice of Direct Request Proceeding (form RTB-44) for each tenant served. The landlord may prove service of one of these methods of service as described in the table above.*

[Reproduced as written.]

The language in Policy Guideline #39 is mandatory.

I note that the Landlord submitted a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm a package was sent to the Tenant by registered mail on December 3, 2020. However, the Landlord did not provide 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 registered mailing sent on December 3, 2019.

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 Landlord's application for an order of possession and a monetary order for unpaid rent is dismissed with leave to reapply.

### Conclusion

I dismiss the Landlord's application for an order of possession and a monetary order for unpaid rent with 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 22, 2020

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Residential Tenancy Branch