



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

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.

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 case, the documents submitted by the Landlord contained several deficiencies and inconsistencies, including:

- The tenant named in the tenancy agreement submitted does not match the Tenant named in the application;
- The Landlord did not submit a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which forms the basis for a request for an order of possession through the Direct Request Proceeding process; and
- Proof of service of the Notice of Direct Request Proceeding document on the Tenant in person does not appear to comply with Policy Guideline #39.

Further, it appears that the tenant named in the tenancy agreement is deceased and the Landlord now seeks an order of possession based on complaints received about the remaining occupants in the rental unit. The Direct Request Proceeding process is not intended to deal with such circumstances.

Considering the above, I find that the Landlord's request for an order of possession is dismissed with leave to reapply. Although not specifically requested, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid to make the application.

For more information about making an application to the Residential Tenancy Branch, see our website at: gov.bc.ca/landlordtenant. Alternately, questions about dispute resolution processes may be answered by an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

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 31, 2020

Residential Tenancy Branch