



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes   OPR-DR-PP, 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 based on unpaid rent, including unpaid rent as per a payment plan.

The Landlord submitted copies of signed Proof of Service Notice of Direct Request Proceeding documents which declare that on December 9, 2020, the Landlord served each of the Tenants with the Notice of Direct Request Proceeding and supporting documents by hand delivery. In support, the Landlord submitted photographic images depicting an envelope in a mailbox.

In this type of matter, a landlord must prove they served the tenant with the Notice of Direct Request Proceeding with all the required inclusions as indicated as per section 89 of the *Act*.

Section 89(1) of the *Act* does not allow for the Notice of Direct Request Proceeding to be served on a tenant by leaving a copy in the mailbox at the address at which the tenant resides when seeking a monetary order.

Section 89(2) of the *Act* does allow for the Notice of Direct Request Proceeding to be served on a tenant by leaving a copy in the mailbox at the address at which the tenant resides when seeking an order of possession for the landlord.

Considering the photographic evidence submitted by the Landlord, I find it is more likely than not that the Landlord served the Notice of Direct Request Proceeding and supporting documents on the Tenants by leaving copies in the mailbox at the address at which the Tenants reside and not in person. For this reason, and pursuant to section 89 of the *Act*, I find that the monetary portion of the Landlord's application for unpaid rent is dismissed with leave to reapply.

With respect to the Landlord's request for an order of possession for unpaid rent or utilities under the Direct Request process, Policy Guideline #39 requires a landlord to provide a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The language is mandatory. This document is necessary as an evidentiary basis upon which to grant an order of possession for unpaid rent or utilities. I have examined the documents submitted by the Landlord and have determined that a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities has not been provided. Accordingly, I find the Landlord's request for an order of possession is dismissed 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: January 5, 2021

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Residential Tenancy Branch