



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 signed Proof of Service Notice of Direct Request Proceeding forms which declare that on December 15, 2020, the landlords served each of the tenants the Notice of Direct Request Proceeding by handing the documents to Tenant B.H.

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 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*. Policy Guideline #39 provides key elements to be considered when making an application for Direct Request:

Proof of Service of the Notice of Direct Request Proceeding may take the form of:

- A registered mail receipt and printed tracking report;
- A receipt signed by the tenant, stating they took hand delivery of the document(s); or
- A witness statement that they saw the landlord deliver the document(s).

I find that the Proof of Service Notice of Direct Request Proceeding forms do not contain the signature of Tenant B.H. acknowledging receipt of the documents. The forms also do not contain the signature of a witness to confirm service of the Notices of Direct Request Proceeding to the tenants.

I find I am not able to confirm service of the Notices of the Direct Request Proceeding and for this reason 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: January 05, 2021

Residential Tenancy Branch