



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, FFL

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 filed by the Landlord for an order of possession based on unpaid rent and an order granting recovery of the filing fee.

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.

Policy Guideline #39 provides direction to landlords making an application for dispute resolution by direct request. It states:

When making an application for dispute resolution through the direct request process, the landlord must provide copies of:

- *the written tenancy agreement;*
- *documents showing changes to the tenancy agreement or tenancy, such as rent increases, or changes to parties or their agents;*
- *the Direct Request Worksheet (form RTB-46) setting out the amount of rent or utilities owing which may be accompanied by supporting documents such as a rent ledger or receipt book;*
- *the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (this is often considered proof that the tenant did not pay rent); and,*

- *proof that the landlord served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and, if applicable, the Written Demand to Pay Utilities.*

The language in Policy Guideline #39 is mandatory.

I have reviewed all documentary evidence and I find that the Landlord's name on the application does not match the names of the landlords as they appear on the tenancy agreement, which names include a numbered company. There is also no evidence or documentation showing that the Landlord named in the application is the owner of the rental property or is otherwise entitled to any orders that may result from this application.

I also note the Landlord did not submit sufficient proof of service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which consisted only of a photographic image of a document taped to a door.

As this is an *ex parte* proceeding that does not allow for any clarification of the facts, I must be satisfied with the documentation presented. The discrepancies in the name of the Landlord and service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities raises questions that cannot be addressed in a Direct Request Proceeding.

For the above reasons, I order that the Landlord's application for an order of possession is dismissed with leave to reapply.

As the Landlord has not been successful, I order that the Landlord's application to recover the filing fee paid to make the application is dismissed without leave to reapply.

Conclusion

The Landlord's application for an order of possession is dismissed with leave to reapply.

The Landlord's application to recover the filing fee is dismissed 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 22, 2021

Residential Tenancy Branch