



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes OPR-DR, OPRM-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 and a monetary order based on unpaid rent, and to recover 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.

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 per section 89 of the *Act*.

Policy Guideline #39 provides direction to a landlord making an application for dispute resolution by Direct Request:

*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.]

In this case, the Landlord submitted images of both sides of a Canada Post Customer Receipt to confirm documents were sent to the Tenant by registered mail on February 13, 2021. However, the Landlord did not provide a copy of a Proof of Service - Notice of Direct Request Proceeding form as required under Policy Guideline #39. This document would include a Landlord statement establishing service of the Notice of Direct Request Proceeding documents on 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 February 13, 2021.

I also note the Landlord did not provide a copy of a written tenancy agreement as required under Policy Guideline #39. Rather, a written statement provided by the Landlord confirmed the Tenant occupied the rental unit when the property was purchased and that the Landlord never received a copy. I make no findings with respect to the terms of the tenancy.

For the above reasons, the Landlord's requests for an order of possession and a monetary order for unpaid rent are dismissed with leave to reapply.

As the Landlord is not successful, I find that the Landlord's request 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: March 2, 2021

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Residential Tenancy Branch