Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-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 landlords for an Order of Possession based on unpaid rent.

The landlords submitted one signed Proof of Service Notice of Direct Request Proceeding form which declares that on February 22, 2021, the landlords handed the Notice of Direct Request Proceeding to Tenant A.M. The landlords had Tenant A.M. and a witness sign the Proof of Service Notice of Direct Request Proceeding to confirm this service.

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*?

Analysis

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 landlords must prove they served the tenants with the Notices of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* and in a manner that is considered necessary as per section 71(2) (a) of the *Act.*

On the top of the Proof of Service Notice of Direct Request Proceeding, the wording reads as follows: "You must serve these documents to each respondent individually

and complete a separate Proof of Service Notice of Direct Request Proceeding for each respondent."

I find that the landlords have included both tenants' names on one Proof of Service Notice of Direct Request Proceeding form. In an ex parte hearing, I find that I am not able to determine whether the landlords handed Tenant A.M. one copy of the Notice of Direct Request Proceeding for Tenant A.M., one copy for Tenant P.P., or two copies, one for each tenant.

I find that I am not able to confirm service of the Notices of the Direct Request Proceeding to each of the parties individually as required by sections 71 and 89 of the *Act* and for this reason, the landlords' application for an Order of Possession for unpaid rent is dismissed with leave to reapply.

Conclusion

I dismiss the landlords' application for an Order of Possession for unpaid rent 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: March 09, 2021

Residential Tenancy Branch