



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 Landlords for an order of possession 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.

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 indicated on the *Notice of Direct Request Proceeding* as per section 89 of the *Act*.

Policy Guideline #39 states:

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.]

The language in Policy Guideline #39 is mandatory.

In this case, the Landlords have not provided a copy of the *Proof of Service - Notice of Direct Request Proceeding* which would include a statement establishing service of the Notice of Direct Request Proceeding and supporting documents on the Tenant. Without this accompanying statement, I find that I am not able to confirm service of these documents.

I find that I am not able to confirm service of the *Notice of Direct Request Proceeding* on the Tenant, which is a requirement of the Direct Request process. For this reason, I find that the Landlord's request for an order of possession based on unpaid rent is dismissed with leave to reapply.

As the Landlords are not successful, I order that the Landlords' 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 16, 2021

Residential Tenancy Branch