



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 filed by the Landlords for an order of possession and a monetary order based on unpaid rent, and an order granting recovery of the filing fee.

The Landlords submitted an image of a signed *Proof of Service - Notice of Direct Request Proceeding* taped to a door, which declares that the Landlords served the Tenant with the *Notice of Direct Request Proceeding* by registered mail and by attaching a copy to the Tenant’s door on March 2, 2021, and that service was witnessed by N.S.

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.

With respect to the Landlords’ assertion that the *Notice of Direct Request Proceeding* was served on the Tenant by registered mail, I note that the Landlords submitted an image of a Canada Post receipt dated March 2, 2021. However, the image of the receipt did not include a Tracking Number to confirm delivery to a named person as required under section 1 of the *Act*. As a result, I find it is not possible to confirm service by registered mail.

With respect to the Landlords' assertion that the *Notice of Direct Request Proceeding* was served on the Tenant by attaching a copy to the Tenant's door, the Landlords submitted an image of the *Proof of Service - Notice of Direct Request Proceeding* attached to the Tenant's door. Although similarly named, these documents are not the same and do not serve the same purpose. The first needs to be served on the Tenant; the second does not need to be served on the Tenant. It appears there may have been some uncertainty concerning what documents were required to be served on the Tenant.

Considering the above, I find the evidence in support of service of the *Notice of Direct Request Proceeding* is ambiguous and gives rise to issues that cannot be addressed in a Direct Request Proceeding.

Therefore, I order that the Landlords' requests for an order of possession and a monetary order for unpaid rent are dismissed with leave to reapply.

As the Landlords have not been successful, I order that their 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