



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Atira Property Management inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR-PP

### 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 landlord for an Order of Possession based on unpaid rent.

The landlord submitted a signed Proof of Service Notice of Expedited Hearing which declares that on February 11, 2021, the landlord served an evidence package to Person R.R.

### Issue(s) to be Decided

Is the landlord 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 landlord must prove they served the tenants with the Notice of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*. Policy Guideline #39 on Direct Requests provides the following requirements:

*“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.”*

I find the landlord has not provided a copy of the Proof of Service Notice of Direct Request Proceeding forms which are a requirement of the Direct Request process as detailed in Policy Guideline #39.

In their place, I find the landlord submitted a copy of a Proof of Service Notice of Expedited Hearing discussing service of evidence to a person who is not one of the respondents for a rental unit that is not the tenants' address and a second copy of a Proof of Service Notice to End Tenancy discussing service of a 10 Day Notice to the tenants.

I find I am not able to confirm service of the Notice of Direct Request Proceeding to the tenants and for this reason, the landlord's application for an Order of Possession for unpaid rent is dismissed with leave to reapply.

#### Conclusion

I dismiss the landlord's 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: April 15, 2021

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Residential Tenancy Branch