



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 for unpaid rent or utilities 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.

Section 89 of the *Residential Tenancy Act* permits service of a Notice of Dispute Resolution Proceeding via email. However, Policy Guideline #12 provides direction to applicants who wish to serve respondents with documents via email service. It states:

To serve documents by email, the party being served must have provided an email address specifically for the purposes of being served documents. If there is any doubt about whether an email address has been given for the purposes of giving or serving documents, an alternate form of service should be used, or an order for substituted service obtained.

[Reproduced as written.]

In this case, the Landlord submitted five copies of a signed Proof of Service Notice of Direct Request Proceeding, each of which refers only to service of the Notice of Dispute Resolution Proceeding and supporting documents on the Tenant I.R. However, I note that only the name of the Tenant S.R. appears on and has signed the tenancy agreement submitted into evidence.

Further, the Landlord submitted documentation indicating each of the Tenants instructed the Landlord to serve them via email. The Proof of Service Notice of Direct Request Proceeding includes five email addresses. However, I find there is insufficient evidence before me – such as a copy of an email from each Tenant – to confirm that each Tenant provided an email address specifically for the purpose of serving documents.

Considering the above, I find I am unable to confirm service of the Notice of Dispute Resolution Hearing and supporting documents on the Tenants in accordance with the *Residential Tenancy Act* and Policy Guideline #12. As a result, I order that 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 has not been successful, I order 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: May 4, 2021

Residential Tenancy Branch