



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR-DR-PP, 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 by the landlords for an Order of Possession based on unpaid rent.

The landlords submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on May 24, 2021, the landlords sent the each of tenants the Notice of Dispute Resolution Proceeding - Direct Request by e- mail. The landlords provided a copy of two outgoing e-mails 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*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Analysis

In this type of matter, the landlords must prove they served the tenants with the Notice of Dispute Resolution Proceeding – Direct Request and all documents in support of the application in accordance with section 89 of the *Act*.

Section 89 of the *Act* provides that a Notice of Dispute Resolution Proceeding - Direct Request may be served “*by any other means of service provided for in the regulations.*”

Section 43(2) of the *Residential Tenancy Regulation* provides that documents “*may be given to a person by emailing a copy to an email address **provided as an address for service by the person.***”

I find that the landlords have sent the Notice of Dispute Resolution Proceeding - Direct Request to the tenants by e-mail. The landlords have submitted a copy of several e-mails sent from the landlords to the tenants; however, I find there is no evidence to

demonstrate that the tenants indicated, in writing, that documents could be served by e-mail.

I find the landlords have not demonstrated that the tenants' e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

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

As the landlords were not successful in this application, I find the landlords are not entitled to recover the filing fee paid for this application.

### Conclusion

I dismiss the landlords' application for an Order of Possession for unpaid rent with leave to reapply.

I dismiss the landlords' application to recover the filing fee paid for this application 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: June 01, 2021

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Residential Tenancy Branch