



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* and dealt with an Application for Dispute Resolution filed by the Landlord for an order of possession and a monetary order based on unpaid rent, 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.

Policy Guideline #39 provides direction to landlords making an application for dispute resolution through the Direct Request process. With respect to service of documents on a tenant, 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 Landlord indicated the Notice of Dispute Resolution Proceeding was served on the Tenant by email on May 26, 2021. In support, the Landlord submitted a screen print of what appears to be an email to the Tenant dated May 26, 2021. The email appears to have a Residential Tenancy Branch Fact Sheet (RTB-130) and a Proof of Service Notice of Direct Request Proceeding (RTB-44) attached. However, only portions of these documents are visible, and the Proof of Service Notice of Direct Request Proceeding does not appear to have been completed.

All other documents submitted by the Landlord were also examined and did not contain a Proof of Service Notice of Direct Request Proceeding as required under Policy Guideline #39.

Considering the above, I find that the Landlord has not provided a copy of the Proof of Service Notice of Direct Request Proceeding which would include a Landlord statement establishing service of the Notice of Dispute Resolution Proceeding on the Tenant. Without this accompanying statement, I find that I am not able to confirm service of these documents.

For this reason, I find that the Landlord's requests for an order of possession and a monetary order based on unpaid rent are dismissed with leave to reapply.

As the Landlord was not successful in this application, I find that the Landlord is not entitled to recover the \$100.00 filing fee. This aspect of the Landlord's application 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: June 1, 2021

Residential Tenancy Branch