



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPU-DR, OPUM-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 by the landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 3, 2021, the landlords personally served Tenant J.M. the Notice of Dispute Resolution Proceeding - Direct Request. The landlords had Tenant J.M. and a witness sign the Proof of Service Notice of Direct Request Proceeding to confirm personal service.

The landlords have not submitted a copy of the Proof of Service Notice of Direct Request Proceeding forms to establish service of the Direct Request Proceeding documents to Tenant A.M. and Tenant L.M.

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 monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 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.

I find the landlords have not provided a copy of the Proof of Service Notice of Direct Request Proceeding forms to establish service of the Direct Request documents to Tenant A.M. and Tenant L.M.

Furthermore, on the Proof of Service Notice of Direct Request Proceeding for Tenant J.M., the landlords have indicated the documents were served on July 3, 2021, a date that has not yet occurred.

I find I am not able to confirm the Notices of Dispute Resolution Proceeding – Direct Request to the tenants, which is a requirement of the Direct Request process.

For this reason, the landlords' application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

As the landlords were not successful in this application, I find that the landlords are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlords' application for an Order of Possession and a Monetary Order 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 14, 2021

Residential Tenancy Branch