



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-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 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.

In this type of matter, the landlord must prove they served the tenant with the Notice of Dispute Resolution Proceeding and supporting documents in accordance with section 89 of the *Act* which permits service “*by sending a copy by registered mail to the address at which the person resides...*”

The definition of registered mail is set out in section 1 of the *Act* as “*any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*” Policy Guideline #12 confirms that this “*includes Express post, if the signature option is used.*”

In this case, the Proof of Service Notice of Direct Request Proceeding documents submitted by the Landlord indicate that the Notices of Dispute Resolution Proceeding were served on the Tenants by registered mail. However, documents in support of service indicate they were sent to the Tenants by UPS, which is not a method of mail delivery provided by Canada Post.

Further, confirmation of delivery to the Tenants named in the application was not provided. Accordingly, I find that service by UPS does not meet the definition of registered mail as defined under the *Act*.

In addition, I note that the same Parcel Shipping Order number (“#123456”) was indicated on separate UPS shipping documents related to service of documents on K.C. and D.A.R., even though the documents were served on different dates. Although this raises concerns about the authenticity of the UPS shipping documents provided, I make no findings in that regard.

Considering the above, I find I am unable to confirm that the Notice of Dispute Resolution Proceeding and supporting documents were served on the Tenants in accordance with the *Act* and Policy Guideline #39. As a result, I find that the Landlord’s request 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 find 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: July 14, 2021

Residential Tenancy Branch