



Dispute Resolution Services

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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.

The Landlord submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that they served each Tenant with a Notice of Dispute Resolution Proceeding and supporting documents in person on July 24, 2021. Receipt of these documents was confirmed with the Tenants’ signatures. I find these documents were served on and received by the Tenants on July 24, 2021.

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 case, I find the evidentiary material submitted by the Landlord gives rise to issues that cannot be addressed in a Direct Request Proceeding.

Policy Guideline #39 provides direction to landlords making an application for dispute resolution by direct request. It requires landlords to provide copies of certain documents including the written tenancy agreement, documents showing changes to the tenancy, the Direct Request Worksheet, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and proof of service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

In this case, I find that the Landlord has not submitted a residential tenancy agreement as required under Policy Guideline #39. Rather, the Landlord submitted a copy of a Roommate Agreement dated April 27, 2021. The Roommate Agreement is between G.L., who appears to be the Landlord's agent in this matter, and the Tenants. The Roommate Agreement also describes how the rental unit, including bathroom and kitchen facilities, would be shared between G.L. and the Tenants.

The Roommate Agreement submitted also gives rise to issues with respect to the jurisdiction of the Residential Tenancy Branch to consider the Landlord's application although I make no findings in that regard. The parties may wish to contact an Information Officer at the Residential Tenancy Branch for assistance.

Considering the above, 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: August 9, 2021

Residential Tenancy Branch