



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR, MNR-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 Applicant to obtain an order of possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

The Applicant submitted a copy of two unwitnessed Proof of Service Notice of Direct Request Proceeding forms which declare that on September 26, 2021, the Applicant served each Tenant the Notice of Dispute Resolution Proceeding - Direct Request in person and by email.

Issues to be Decided

Is the Applicant entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

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

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

Analysis

In this type of matter, the Applicant 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 subsections 89 (1) and (2) of the *Act* which permit service by either leaving a copy with the person, sending a copy by registered mail to

the address at which the person resides, leaving a copy with an adult who apparently resides with the tenant; or attaching a copy to the door or other conspicuous place at the address at which the tenant resides.

I find that the Applicant has indicated on both Proof of Service Notice of Direct Request Proceeding forms that they served the Notice of Dispute Resolution Proceeding - Direct Request by hand delivering a copy to each Tenant. However, I find that service has not been proven as the Tenants have not signed as acknowledgement of receipt of the documents nor has the name or signature of a witness to this hand delivery been provided on both Proof of Service Notice of Direct Request Proceeding forms.

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.*”

The Applicant has also indicated that they served each Tenant the Notice of Dispute Resolution Proceeding - Direct Request by emailing two copies to Tenant N.D.’s email address. However, the Applicant has not provided a copy of the sent emails to prove this service and I also find that there is no evidence to demonstrate that the Tenants indicated documents could be served by e-mail.

I find I am not able to confirm service of the Notices of Dispute Resolution Proceeding - Direct Request to the Tenants and for this reason, the Applicant's application for an order of possession and a monetary order for unpaid rent is dismissed with leave to reapply.

As the Applicant was not successful in this application, I find the Applicant is not entitled to recover the filing fee paid for this application.

Conclusion

I dismiss the Applicant's application for an order of possession and a monetary order for unpaid rent with leave to reapply.

I dismiss the Applicant's 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: October 25, 2021

Residential Tenancy Branch