



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 Landlords 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 Landlords submitted a copy of two Proof of Service Notice of Direct Request Proceeding forms which declare that on October 4, 2021, the Landlords sent each Tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The Landlords provided a copy of two Canada Post Customer Receipts containing the tracking numbers to confirm they served the Tenants.

Issues 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 this type of matter, the Landlords 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 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 on Service Provisions goes on to clarify that this “includes Express post, if the signature option is used.”

I find that the tracking numbers provided by the Landlords with the Proof of Service Notice of Direct Request Proceeding forms are for packages sent by Canada Post’s Express post mailing, which may or may not require a signature from the individuals to confirm delivery to the persons named as the respondents.

In this case, Canada Post’s Online Tracking System shows that signatures were not required for the delivery of these Express post mailings and, as such, they do not meet the definition of registered mail as defined under the *Act*.

Since I find that the Landlords have not served the Tenants with notice of this application in accordance with section 89 of the *Act*, I dismiss the Landlords’ application for an order of possession and a monetary order for unpaid rent 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

The Landlords’ application for an order of possession and a monetary order for unpaid rent is dismissed with leave to reapply.

The Landlords’ application to recover the filing fee paid for this 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: November 04, 2021

Residential Tenancy Branch