



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE ADVANTAGE REALTY LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPR-DR**

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 Landlord to obtain an order of possession based on unpaid rent.

The Landlord submitted a copy of a Canada Post Customer Receipt containing the tracking number and a copy of a picture of an envelope addressed to the Tenant with the Canada Post mailing label affixed to it to confirm a package was sent to the Tenant on October 15, 2021.

Issue to be Decided

Is the Landlord entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 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.

In this type of matter, the Landlord must prove they served the Tenant 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*. Policy Guideline #39 on Direct Requests provides the following requirements:

“After the Notice of Dispute Resolution Proceeding Package has been served to the tenant(s), the landlord must complete and submit to the Residential Tenancy

Branch a Proof of Service Notice of Direct Request Proceeding (form RTB-44) for each tenant served.”

I note that the Landlord submitted a copy of a Canada Post Customer Receipt and an envelope addressed to the Tenant containing a tracking number to confirm a package was sent to the Tenant on October 15, 2021. However, I find the Landlord has not provided a copy of the Proof of Service Notice of Direct Request Proceeding form which is a requirement of the Direct Request process as detailed in Policy Guideline #39.

I find the Landlord has not submitted the documents required for a Direct Request and for this reason, the Landlord's application for an order of possession based on unpaid rent is dismissed with leave to reapply.

Conclusion

I dismiss the Landlord's application for an order of possession based on unpaid rent with 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 18, 2021

Residential Tenancy Branch