



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.

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.

Section 89 of the Act permits service of the Notice of Dispute Resolution Proceeding and supporting evidence by registered mail. A landlord must prove they served each of the tenants with these documents.

Policy Guideline #39 describes a “Canada Post Registered Mail receipt showing the date and time of purchase and printed tracking report” as sufficient proof of service by registered mail.

In this case, although the Landlord submitted a Proof of Service Notice of Direct Request Proceeding, the Landlord did not submit sufficient proof of service by registered mail as described in Policy Guideline #39. Specifically, the Landlord did not submit a Canada Post registered mail receipt and a printed tracking report.

In addition, I note the Landlord provided the same tracking number on both Proof of Service Notice of Dispute Resolution Proceeding documents, suggesting that the Tenants were not served separately.

Considering the above, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding and supporting documents on each of the Tenants by registered mail in accordance with the Act and Policy Guideline #39. Therefore, 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 for recovery of 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: January 25, 2022

Residential Tenancy Branch