



Dispute Resolution Services

Page: 1

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 a signed Proof of Service Notice of Direct Request Proceeding which indicates that the Tenant was served with a Notice of Dispute Resolution Proceeding by attaching a copy to the Tenant's door or other noticeable place on January 13, 2022. However, hand-written notes which appear on the form confirm that the Notice of Dispute Resolution Proceeding was left in the Tenant's mailbox. Service in this manner was witnessed by D.D.

In this type of matter, the landlord must prove they served the tenant with the Notice of Dispute Resolution Proceeding and supporting documents in accordance with section 89 of the Act, which does not permit service of the Notice of Dispute Resolution Hearing by leaving a copy in a tenant's mailbox.

Further, Policy Guideline #39 confirms:

The Notice of Dispute Resolution Proceeding Package may only be served to the tenant:

- *by registered mail;*
- *in person;*
- *by emailing it to an email address provided for service by the tenant;*

- *by posting it on the tenant's door or in an equally conspicuous place. (Note: this method cannot be used if the application includes a request for a monetary order); or*
- *by leaving a copy with an adult who apparently resides with the tenant. (Note: this method cannot be used if the application includes a request for a monetary order).*

Considering the above, I find that leaving a copy of the Notice of Dispute Resolution Proceeding in the Tenant's mailbox is not an approved method of service under section 89 of the Act and Policy Guideline #39. I also find that leaving a document in a tenant's mailbox is not equivalent to attaching a copy to the tenant's door or equally conspicuous place. As a result, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding on the Tenant.

I order that the Landlord's requests for an order of possession and a monetary order for unpaid rent are dismissed without leave to reapply.

As the Landlord is unsuccessful, 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: January 28, 2022

Residential Tenancy Branch