



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 Landlords for an order of possession and a monetary order for unpaid rent and to recover the filing fee.

The Landlords submitted signed Proof of Service Notice of Direct Request Proceeding documents which declares that the Landlords served each of the Tenants with a Notice of Dispute Resolution Proceeding and supporting evidence on January 5, 2022, to an email address provided by the Tenants for this purpose.

Section 89 of the Act and section 43 of the Residential Tenancy Regulation (the Regulation) confirm that an application for dispute resolution may be served on a respondent using an email address provided by the respondent for service of documents.

Policy Guideline #39 confirms a landlord must provide proof that a Notice of Dispute Resolution Proceeding and supporting evidence are served on a tenant in accordance with the Act and the Regulation. In addition to completing a Proof of Service Notice of Direct Request Proceeding, a landlord must provide sufficient proof of service by email, which is described in Policy Guideline #39 as follows:

A copy of the outgoing email showing the email address used, the date the email was sent, and any attachments included in the email,

and

RTB 51 – Address for Service or other document that sets out the party's email address for service

In this case, although the Landlords submitted the Proof of Service Notice of Direct Request Proceeding documents for each Tenant as required under Policy Guideline #39, they were not supported by any proof that the email address used was provided by the Tenants for the purpose of serving documents or that the documents were served on the Tenants by email.

Considering the above, I find there is insufficient evidence before me to conclude the Tenants were served with the Notice of Dispute Resolution Proceeding and supporting evidence in accordance with the Act, the Regulation, and Policy Guideline #39.

I order that the Landlords' requests for an order of possession and a monetary order for unpaid rent are dismissed with leave to reapply.

As the Landlords have not been successful, I order that the Landlords' request for an order granting 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 26, 2022

Residential Tenancy Branch