



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.

In this case, I find the evidentiary material gives rise to several issues that require clarification beyond the purview of a Direct request Proceeding.

First, the Landlord submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that they served each Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by attaching copies to the Tenants' door or other noticeable place on November 9, 2021. Service in this manner was witnessed by D.S.

However, section 89(1) of the Act does not allow the Notice of Direct Request Proceeding to be given to a tenant by attaching a copy to a door at the address at which the tenant resides when seeking monetary compensation.

Section 89(2) of the Act does allow the Notice of Direct Request Proceeding to be given to the tenant by attaching a copy to a door at the address at which the tenant resides, only when considering a request for an order of possession for the landlord.

As the Landlord served the Notice of Direct Request Proceeding documents by attaching copies to the Tenants' door, I find I am unable to consider the Landlord's request for a monetary order for unpaid rent.

Second, I find that the Proof of Service Notice of Direct Request Proceeding is internally inconsistent. The document indicates on page 1 that the 10 Day Notice was served on the Tenants on October 7, 2021, whereas the witness statement on page 2 indicates the 10 Day Notice was served on October 4, 2021. I also note that confirmation of service of the 10 Day Notice was signed on October 4, 2021, three days before the alleged service on October 7, 2021.

Third, I note a discrepancy between the amount of rent due as of October 7, 2021 as stated on the 10 Day Notice (\$3,290.00) and as stated in the Direct Request Worksheet (\$4,177.50).

Considering the above, 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 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 4, 2022

Residential Tenancy Branch