



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, the Landlord submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that the Landlord served each Tenant with a Notice of Dispute Resolution Proceeding package by registered mail on December 3, 2021. However, in support of service of these documents the Landlord provided a copy of a Canada Post registered mail receipt dated December 2, 2021.

In addition, the Landlord submitted a Proof of Service Notice to End Tenancy document which indicates at a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 2, 2021 was served on the Tenants by registered mail on October 25, 2021. However, in support of service of this document the Landlord provided a Canada Post registered mail receipt dated November 2, 2021.

I find there are significant inconsistencies in the Landlord's evidence with respect to service of the Notice of Dispute Resolution Proceeding package and the 10 Day Notice on the Tenants. As a result, I am unable to confirm these documents were served on the Tenants in accordance with the Act and Policy Guideline #39. These inconsistencies cannot be resolved in a Direct Request Proceeding.

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 7, 2022

Residential Tenancy Branch