



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPU-DR, MNU-DR, FFL**

Introduction

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 by the landlord to obtain an Order of Possession based on unpaid rent and utilities, to obtain monetary compensation for unpaid rent and utilities, and to recover the filing fee paid for the application.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding form which declares that on February 2, 2022, the landlord sent the tenant the Notice of Direct Request Proceeding by email and by registered mail to an address that is not the rental unit.

Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent and utilities pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent and utilities pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Analysis

In this type of matter, the landlord must prove they served the tenant with the Notice of Dispute Resolution Proceeding – Direct Request and all documents in support of the application in accordance with section 89 of the *Act* which permits service by sending a copy by registered mail to the address at which the person resides or, by sending a copy by registered mail to a forwarding address provided by the tenant.

I find that the address indicated on the Proof of Service Notice of Direct Request Proceeding form where the registered mail package was sent to is not the rental address established in the tenancy agreement. There is also no indication as to whether the tenant resides at this alternative address or whether they have provided the landlord this address for service of documents.

Section 89 of the *Act* provides that a Notice of Dispute Resolution Proceeding - Direct Request may be served “*by any other means of service provided for in the regulations.*”

Section 43(2) of the *Residential Tenancy Regulation* provides that documents “*may be given to a person by emailing a copy to an email address **provided as an address for service by the person.***”

I find that the landlord has sent the Notice of Dispute Resolution Proceeding - Direct Request to the tenant by e-mail. However, I find there is no evidence to demonstrate that the tenant indicated documents could be served by e-mail.

I find the landlord has not demonstrated that the tenant's e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

As I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the tenant, which is a requirement of the Direct Request process, the landlord's application for an Order of Possession and a Monetary Order for unpaid rent and utilities is dismissed with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid rent and utilities with leave to reapply.

I dismiss the landlord's application to recover the filing fee paid for this application 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: February 17, 2022

Residential Tenancy Branch