



# 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.

Policy Guideline #39 provides direction to landlords making an application for dispute resolution by Direct Request. It confirms that a landlord must serve a Notice of Dispute Resolution Proceeding Package on the tenant. The Notice of Dispute Resolution Proceeding Package must include certain documents, including a Notice of Dispute Resolution Proceeding (which includes the Application for Dispute Resolution), the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (form RTB-30), the written tenancy agreement, the Proof of Service Notice to End Tenancy and Written Demand to Pay Utilities (form RTB-34), the Direct Request Worksheet (form RTB-46), and any evidence submitted with the application.

After the Notice of Dispute Resolution Proceeding Package has been served on the tenant, the landlord must complete and submit to the Residential Tenancy Branch a Proof of Service Notice of Direct Request Proceeding (form RTB-44) which is provided by the Residential Tenancy Branch. The language in Policy Guideline #39 is mandatory.

In this case, the Landlord submitted copies of Canada Post registered mail receipts confirming the date and time of purchase and providing the tracking number. However, the Landlord did not submit a Proof of Service Notice of Direct Request Proceeding as required under Policy Guideline #39. As a result, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding Package on the Tenant.

Accordingly, 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 request for 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: February 9, 2022

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Residential Tenancy Branch