



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM PROPERTIES INC.
and [tenant name suppressed to protect privacy]

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 prove that the Notice of Dispute Resolution Proceeding was served on the tenant in accordance with section 89 of the Act, which permits service by registered mail.

Policy Guideline #39 confirms that proof of service by registered mail consists of a "Canada Post Registered Mail receipt showing the date and time of purchase and printed tracking report".

In this case, the Landlord provided an incomplete Proof of Service Notice of Direct Request Proceeding document which states the Landlord served a Notice of Dispute Resolution Proceeding on the Tenant by registered mail on January 19, 2022 (the Proof of Service).

However, the Landlord did not provide a Canada Post registered mail receipt or a printed tracking report in support of service of the Notice of Dispute Resolution Proceeding. Further, written comments in the application indicate the Notice of Dispute Resolution Proceeding was served on January 18, 2022, contradicting the Proof of Service document. As a result, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding in accordance with section 89 of the Act and Policy Guideline #39.

In addition, I note the Landlord provided no evidence or indication that any supporting documents were served on the Tenant.

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 was not 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 16, 2022

Residential Tenancy Branch