



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SANDPAK VENTURES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-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 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 Direct Request Proceedings, the Landlord must prove that the tenant was served with the Notice of Dispute Resolution Proceeding and supporting documents in accordance with section 89 of the Act, which permits in person service.

Policy Guideline #39 provides direction to landlords making an application for dispute resolution by Direct Request. It describes what is needed to prove in person service as follows:

Hand-delivery receipt completed and signed by the person who received the document(s) confirming that the person is an adult and resides with the tenant and stating what document(s) the person received by hand, the date and time of service and the name of the person who served the document(s)

or

Signed witness statement confirming the name of the person who served the document(s) by hand delivering them to an adult who apparently resides with the tenant, what document(s) they served, the date and time of service and the name of the person the documents were served to

In this case, the Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that the Landlord served each of the Tenants with a Notice of Dispute Resolution Proceeding by giving copies to J.J. on February 3, 2022. Receipt of these documents was acknowledged by the signature of J.J.

However, J.J. is not named in the tenancy agreement and the evidence submitted by the Landlord does not indicate that J.J. is an adult and resides with the Tenants, or the time and time of service. Further, the evidence submitted by the Landlord does not include a signed witness statement.

Considering the above, I find I am unable to confirm that the Notice of Direct Request Proceeding was served on the Tenants in accordance with the Act and Policy Guideline #39.

As a result, 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 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: February 24, 2022

Residential Tenancy Branch