



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 prove service of the Notice of Direct Request Proceeding in accordance with the Act, which permits service of these documents by registered mail.

Further, Policy Guideline #39 confirms that a “Canada Post Registered Mail receipt showing the date and time of purchase and printed tracking report” is sufficient proof of service by registered mail.

In this case, the Landlord submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that the Landlord served each of the Tenants with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on February 10, 2022. Service in this manner was supported by Canada Post

Customer Receipts which included the tracking numbers. However, these documents did not show the date and time of purchase. Further, the Landlord did not submit a printed tracking report.

Considering the above, I find there is insufficient evidence before me to confirm the Landlord served the Notice of Dispute Resolution Proceeding on the Tenants in accordance with the Act and Policy Guideline #39.

Therefore, 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 for an order granting 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: March 1, 2022

Residential Tenancy Branch