



# 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.

A landlord must prove they served the Notice of Dispute Resolution Proceeding and supporting documents on the tenant in accordance with section 89 of the Act, which permits service by registered mail.

Policy Guideline #39 states how a landlord must prove service of the Notice of Dispute Resolution Proceeding and supporting documents on a tenant:

After the Notice of Dispute Resolution Proceeding Package has been served to the tenant(s), the landlord must complete and submit to the Residential Tenancy Branch a Proof of Service Notice of Direct Request Proceeding (form RTB-44) for each tenant served. The landlord may prove service of one of these methods of service as described in the table above.

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

In this case, in accordance with Policy Guideline #39, the Landlord provided copies of Proof of Service Notice of Direct Request Proceeding documents which indicate that the Landlord served each of the Tenants with a Notice of Direct Request Proceeding and supporting documents by registered mail on February 24, 2022. The Landlord provided the date and time of purchase and the tracking numbers. However, the Landlord’s did not submit Canada Post registered mail receipts or a printed tracking report. As a result, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding and supporting documents on the Tenant in accordance with the Act and Policy Guideline #39.

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 has not been 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: March 16, 2022

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Residential Tenancy Branch