



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR-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 by the landlords to obtain an Order of Possession based on unpaid rent and to recover the filing fee paid for the application.

The landlords submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on March 16, 2022, the landlords sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by e-mail.

### Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Analysis

In this type of matter, the landlords must prove they served the tenant with the Notice of Dispute Resolution Proceeding – Direct Request and all documents in support of the application in accordance with section 89 of the *Act*.

Policy Guideline #39 provides that service by e-mail may be proven by providing:

- A copy of the outgoing email showing the email address used, the date the email was sent, and any attachments included in the email and
- The RTB-51 - Address for Service or other document that sets out the party's email address for service

The landlords have indicated that they sent the Notice of Dispute Resolution Proceeding - Direct Request to the tenant by e-mail. However, I find the landlords have not submitted a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

I also find there is no evidence to demonstrate that the tenant indicated documents could be served by e-mail. I find the landlords have not demonstrated that the tenant's e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the tenant and for this reason, the landlords' application for an Order of Possession for unpaid rent is dismissed with leave to reapply.

As the landlords were not successful in this application, I find the landlords are not entitled to recover the filing fee paid for this application.

### Conclusion

I dismiss the landlords' application for an Order of Possession for unpaid rent with leave to reapply.

I dismiss the landlords' application to recover the filing fee paid for this application 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: April 05, 2022

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Residential Tenancy Branch