



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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 by the landlord to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

The landlord indicates that on June 2, 2022 they emailed the tenant the Notice of Dispute Resolution Proceeding - Direct Request in accordance with an order for substituted service. The landlord provided a copy of a snapshot of an email sent to an email address that was not displayed with text that was not in English to confirm this service.

### Issues to be Decided

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

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

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

### Analysis

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 this type of matter, the landlord must prove they served the tenant with the Notice of Dispute Resolution Proceeding– Direct Request. Policy Guideline #39 on Direct Requests provides the following requirements:

*“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.”*

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

I find that the landlord has not provided a copy of the Proof of Service Notice of Direct Request Proceeding form which is a requirement of the Direct Request process as detailed in Policy Guideline #39. I further find that the landlord submitted a copy of a snapshot of a sent email in which the recipient's email address was not displayed and the date that the email was sent was not clear as the text was not in English.

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

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid rent with leave to reapply.

I dismiss the landlord's 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: June 22, 2022

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Residential Tenancy Branch