



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR

### 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 obtain monetary compensation for unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlords on July 6, 2022.

The landlords submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 22, 2022, the landlords posted the Notice of Dispute Resolution Proceeding - Direct Request to the door of the rental unit. The landlords had a witness sign the Proof of Service Notice of Direct Request Proceeding form to confirm this service.

Based on the written submissions of the landlords and in accordance with sections 89(2) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on July 22, 2022 and are deemed to have been received by the tenant on July 25, 2022, the third day after their posting.

### 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 monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords on February 27, 2020, and the tenant on February 25, 2020, indicating a monthly rent of \$1,000.00, due on the first day of each month for a tenancy commencing on March 1, 2020
- A copy of a One Month Notice to End Tenancy for Cause dated June 1, 2022, with a stated effective vacancy date of July 1, 2022
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the eviction notice was served to the tenant in person at 5:10 pm on June 2, 2022
- A Direct Request Worksheet and ledger showing the rent owing and paid during the relevant portion of this tenancy

### 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.

Section 59 of the *Act* establishes that an Application for Dispute Resolution must “include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings.”

Policy Guideline #39 on Direct Requests provides the following information:

When making an application for dispute resolution through the direct request process, the landlord must provide copies of:

- The written tenancy agreement
- Documents showing changes to the tenancy agreement or tenancy
- The Direct Request Worksheet (form RTB-46) setting out the amount of rent or utilities owing which may be accompanied by supporting documents such as a rent ledger or receipt book
- **The 10 Day Notice** to End Tenancy for Unpaid Rent or Utilities (this is often considered proof that the tenant did not pay rent).
- Proof that the landlord served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and, if applicable, the Written Demand to Pay Utilities

I find that the landlords have not submitted a copy of a 10 Day Notice issued to the tenant. In its place, the landlords provided a copy of a One Month Notice to End Tenancy for Cause.

I find that the Direct Request process is only available when a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities has been issued to the tenant.

I further find that I am not able to consider the landlords' Application for Dispute Resolution by Direct Request without a copy of the 10 Day Notice, which forms a part of the Application.

For this reason, the landlords' application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

### Conclusion

I dismiss the landlords' application for an Order of Possession and a Monetary Order for unpaid rent with 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: August 24, 2022

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Residential Tenancy Branch