



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OPU-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 landlord to obtain an Order of Possession based on unpaid rent and utilities.

The landlord submitted a copy of three witnessed Proof of Service Notice to End Tenancy forms which declares that on August 7, 2022, the landlord served the tenants a 10 Day Notice by leaving three copies in the tenants' mailbox. The landlord has not submitted a copy of the Proof of Service of the Notice of Direct Request Proceeding form for each tenant to establish service of the Notice of Direct Request Proceeding documents to the tenants.

### Issue to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent and utilities pursuant to sections 46 and 55 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 tenants with the Notices 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 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.”*

I find that the landlord has not provided a copy of a Proof of Service Notice of Direct Request Proceeding form to establish service of the Direct Request Proceeding documents to each tenant. In its place, I find that the landlord submitted a copy of a Proof of Service Notice to End Tenancy form discussing service of a 10 Day Notice to each tenant.

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

### Conclusion

I dismiss the landlord's application for an Order of Possession for unpaid rent and utilities 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 31, 2022

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Residential Tenancy Branch