



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPU-DR, MNU-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 utilities, to obtain monetary compensation for unpaid utilities, and to recover the filing fee paid for the application.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on September 2, 2022, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by e-mail.

Issue(s) to be Decided

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

Is the landlord entitled to monetary compensation for unpaid utilities 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 this type of matter, the landlord 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 landlord has indicated that they sent the Notice of Dispute Resolution Proceeding - Direct Request to the tenant by e-mail. However, I find the landlord has 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 landlord has not demonstrated that the tenant's e-mail address was provided specifically 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 landlord's application for an Order of Possession and a Monetary Order for unpaid utilities is dismissed with leave to reapply.

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

Conclusion

I dismiss the landlord's application for an Order of Possession and a Monetary Order for unpaid utilities 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: September 28, 2022

Residential Tenancy Branch