



Dispute Resolution Services

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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 rent and utilities, to obtain monetary compensation for unpaid rent and utilities, and to recover the filing fee paid for the application.

The landlord provided statement indicating that on September 15, 2022 they served each tenant the Notice of Dispute Resolution Proceeding - Direct Request by handing them to tenant N.C. The landlord submitted a copy of a witnessed Proof of Service Notice of Direct Request Proceeding form which declares that on September 15, 2022, the landlord personally served tenant G.R. the Notice of Dispute Resolution Proceeding - Direct Request.

The landlord submitted a second witnessed Proof of Service Notice of Direct Request Proceeding form which declares that on September 15, 2022, the landlord served both tenants the Notice of Dispute Resolution Proceeding - Direct Request by posting it to the door of the rental unit.

Issues 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*?

Is the landlord entitled to monetary compensation for unpaid rent and 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 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* and in a manner that is considered necessary as per section 71(2) (a) of the *Act*.

Policy Guideline #12 on Service Provisions provides the following requirement:

“Important: all parties named on an application for dispute resolution must receive notice of the proceedings. Where more than one party is named on an application, each party must be served separately. ”

The landlord provided a statement that indicates that they served tenant G.R. the Notice of Dispute Resolution Proceeding– Direct Request by handing to tenant N.C., however, I find a witness statement on one Proof of Service Notice of Direct Request Proceeding form that indicates the landlord personally served tenant G.R. the Notice of Dispute Resolution Proceeding– Direct Request.

I further find that the second Proof of Service Notice of Direct Request Proceeding form names both tenants and indicates that the landlord served the tenants the Notice of Dispute Resolution Proceeding– Direct Request by posting it to the door of the rental unit. I find that the landlord has included both tenants’ names on one Proof of Service Notice of Direct Request Proceeding form. In an *ex parte* hearing, I find that I am not able to determine whether the landlord served each tenant the Notice of Dispute Resolution Proceeding - Direct Request by posting two copies; one copy for tenant G.R. and one copy for tenant N.C., or if the landlord posted one copy for both tenants.

I find that I am not able to confirm service of the Notices of Dispute Resolution Proceeding - Direct Request to each of the parties individually as required by sections 71 and 89 of the *Act* and for this reason, the landlord’s application for an Order of Possession and a Monetary Order for unpaid rent and utilities 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 and 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: October 18, 2022

Residential Tenancy Branch