



# 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 landlord 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 landlord on September 12, 2022.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding which declare that on August 11, 2022, the landlord sent each tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit.

The landlord also provided a copy of two Canada Post Customer Receipts containing tracking numbers to confirm packages were sent to each tenant by Express post on September 26, 2022.

### Issue(s) 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*?

### Analysis

In this type of matter, the landlord must prove they served each 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*.

The landlord submitted two Proof of Service Notice of Direct Request Proceeding forms indicating the landlord sent the Notices of Dispute Resolution Proceeding – Direct Request by registered mail on August 11, 2022.

However, I find that the landlord did not file for dispute resolution until September 12, 2022, and the Direct Request proceeding packages were not made available for service until September 23, 2022.

I also note that section 89 of the *Act* permits service “*by sending a copy by registered mail to the address at which the person resides...*”

The definition of registered mail is set out in section 1 of the *Act* as “*any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*” Policy Guideline #12 on Service Provisions goes on to clarify that this “*includes Express post, if the signature option is used.*”

I find that the tracking numbers provided by the landlord are for packages sent by Canada Post’s Express post mailing, which may or may not require a signature from the individual to confirm delivery to the person named as the respondent.

In this case, Canada Post’s online tracking system shows that signatures were not required for the delivery of these Express post mailings and, as such, they do not meet the definition of registered mail as defined under the *Act*.

I find I am not able to confirm service of the Notices of Dispute Resolution Proceeding – Direct Request to the tenants in accordance with section 89 of the *Act*.

For this reason, I dismiss the landlord’s application for an Order of Possession and a Monetary Order for unpaid rent with leave to reapply.

### Conclusion

The landlord’s application for an Order of Possession and a Monetary Order for unpaid rent is dismissed 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: October 27, 2022

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Residential Tenancy Branch