

DECISION

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 the landlord's Application for Dispute Resolution (Application) for:

- an Order of Possession based on unpaid rent pursuant to sections 46 and 55 of the Act
- a Monetary Order for unpaid rent pursuant to section 67 of the Act (\$10,350.00)
- authorization to recover the filing fee for this application from the tenant pursuant to section 72 of the Act (\$100.00)

Service of Notice of Dispute Resolution Proceeding - Direct Request

The landlord submitted a signed Proof of Service Landlord's Notice of Direct Request Proceeding which declares that, on October 25, 2022, the Notice of Dispute Resolution Proceeding - Direct Request (Proceeding Package) was handed to Person J.S. The landlord had Person J.S. sign the Proof of Service Landlord's Notice of Direct Request Proceeding form to confirm this service.

Issue(s) to be decided

Is the landlord entitled to an Order of Possession based on unpaid rent?

Is the landlord entitled to a Monetary Order for unpaid rent? (\$10,350.00)

Is the landlord entitled to recover the filing fee for this application from the tenant? (\$100.00)

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.

Section 89(1) of the Act does not allow for the Notice of Dispute Resolution Proceeding - Direct Request to be left with an adult who apparently resides with the tenant.

Section 89(2) of the Act does allow for the Notice of Dispute Resolution Proceeding - Direct Request to be left with an adult who apparently resides with the tenant, only when considering the issuance of an Order of Possession for the landlord.

The Proof of Service Landlord's Notice of Direct Request Proceeding submitted by the landlord indicates service to Person J.S., but there is no indication or documentation in the evidence that the person who received the documents is an adult, or that they apparently reside with the tenant.

I find that I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request in compliance with section 89 of the Act and for this reason the landlord's application for an Order of Possession and a Monetary Order for unpaid rent 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

The landlord's application for an Order of Possession based on unpaid rent, pursuant to sections 46 and 55 of the Act, is dismissed with leave to reapply.

The landlord's application for a Monetary Order for unpaid rent, pursuant to section 67 of the Act, is dismissed with leave to reapply.

The landlord's application for authorization to recover the filing fee for this application from the tenant, pursuant to section 72 of the Act, is dismissed 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: November 29, 2022

Residential Tenancy Branch