



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL OPRM-DR

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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted three Proofs of Service of the Notices of Direct Request Proceeding which declare that on November 14, 2018, the landlord served each of tenants “CM”, “PD”, and “LC” with a Notice of Direct Request Proceeding by way of personal service via hand-delivery. None of the three Notices of Direct Request Proceeding were confirmed by way of the tenant acknowledgement.

While the landlords indicated that each of the three notices was hand-delivered to each respective tenant, all three Notice of Direct Request Proceeding forms list tenant “CM” as the name of the tenant being served. Accordingly, I find that tenants “PD” and “LC” were not properly served in accordance with section 89 of the Act.

I dismiss the landlords’ application against “PD” and “LC”, with leave to reapply.

Additionally, the landlords failed to sign the Notice of Direct Request Proceeding Form which was served on “CM”. As I have already dismissed the landlords’ claims against “PD” and “LC”, I dismiss the landlords’ application against “CM” with leave to reapply.

To do otherwise would bifurcate the application, and potentially create a situation where inconsistent findings are made between the “CM” proceeding and the “PD” and “LC” proceeding. Such an outcome would bring the administration of justice into disrepute, and must be avoided if possible.

As I have dismissed the landlords’ applications as against all tenants on the basis that the Notice of Direct Request Proceeding forms were not properly served, there is no need to consider the balance of the landlords’ evidence.

As the landlords were not successful in this application, I find that the landlords are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I order that the landlords' application for an Order of Possession based on unpaid rent and a monetary order be dismissed with leave to reapply.

I order that the landlords' application to recover the \$100.00 filing fee 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 16, 2018

Residential Tenancy Branch