

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 (\$800.00)
- authorization to recover the filing fee for this application from the tenants pursuant to section 72 of the Act (\$100.00)

Service of Notice of Dispute Resolution Proceeding - Direct Request

The landlord submitted a copy of two Proof of Service Notice of Direct Request Proceeding forms which declare that on October 8, 2022 they emailed the tenants the Notices of Dispute Resolution Proceeding - Direct Request (Proceeding Packages). The landlord provided two copies of an RTB# 51 Address for Service form with the Proof of Service forms.

Issues 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? (\$800.00)

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

Analysis

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*.

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 Notices of Dispute Resolution Proceeding - Direct Request to the tenants by e-mail. However, I find the landlord has not submitted a copy of the outgoing e-mails containing the Direct Request documents as attachments to confirm this service.

I find I am not able to confirm service of the Notices of Dispute Resolution Proceeding - Direct Request to the tenants 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 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 rent 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: November 14, 2022

Residential Tenancy Branch