

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 landlords' 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 (\$1,750.00)
- 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 landlords submitted one signed Proof of Service Landlord's Notice of Direct Request Proceeding which declares that, on October 26, 2022, the tenants were served with the Notice of Dispute Resolution Proceeding - Direct Request (Proceeding Package) by e-mail. The landlords submitted a copy of an Address for Service form which was signed by the tenants on May 7, 2022, indicating the tenants agreed to receive documents by e-mail.

Issue(s) to be decided

Are the landlords entitled to an Order of Possession based on unpaid rent?

Are the landlords entitled to a Monetary Order for unpaid rent? (\$1,750.00)

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

Analysis

In this type of matter, the landlords must prove they served the tenants 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.

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 landlords have indicated that they sent the Notice of Dispute Resolution Proceeding - Direct Request to the tenants by e-mail. However, I find the landlords have not submitted a copy of the outgoing e-mail(s) containing the Direct Request documents as attachments to confirm this service.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to each tenant and for this reason, the landlords' application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

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

Conclusion

I dismiss the landlords' application for an Order of Possession and a Monetary Order for unpaid rent with leave to reapply.

I dismiss the landlords' 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 29, 2022

Residential Tenancy Branch