

39. Landlord's Direct Requests

Sep-23

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A. Takeaway

This policy guideline addresses:

- the legislative framework for the landlord direct request process;
- the key elements to be taken into account when considering a direct request; and
- the possible outcomes.

Keywords: direct request, Notice to End Tenancy, order of possession, monetary order

B. Related Guidelines

See [Policy Guideline 49 – Tenant's Direct Request](#) for the tenant's direct request

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process.

See [Policy Guideline 12: Service Provisions](#) for how legal documents or orders must be served.

C. Legislative Framework

The following sections describe landlord's direct requests.

<i>Residential Tenancy Act</i> (RTA)	<i>Manufactured Home Park Tenancy Act</i> (MHPTA)
<ul style="list-style-type: none">• section 55(4)	<ul style="list-style-type: none">• section 48(4)

The RTA and MHPTA allow a decision and orders to be made based only on a landlord's written application, without a participatory hearing taking place. The Residential Tenancy Branch refers to this as the "direct request" process (see [Policy Guideline 49 – Tenant's Direct Request](#) for the tenant's direct request process).

The landlord's direct request process is limited to:

- applications for orders of possession;
- monetary orders for unpaid rent; and
- recovery of the filing fee associated with applying by direct request.

This process is only available if:

- the landlord has given the tenant a notice to end the tenancy;
- the tenant has not disputed the notice by making an application for dispute resolution (or paid the rent, if the notice is for non-payment of rent); and
- the time for making that application (or paying the overdue rent) has expired.

Under RTA [section 46\(6\)](#) and MHPTA [section 39\(6\)](#), a landlord may treat unpaid utility charges as unpaid rent if the tenancy agreement requires the tenant to pay utility charges and the utility charges remain unpaid more than 30 days after the landlord gives the tenant a written demand for payment of them. If the tenant does not dispute the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* or does not pay all rent and utilities owing within five days after receiving or being deemed to have received the notice, the landlord may make an application for dispute resolution

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through the direct request process.

Orders to keep the security deposit or pet damage deposit, or for compensation for damages are only available through the standard dispute resolution process.

This process is not available for applications for orders of possession for landlord's use of property because of the preconditions that a landlord must meet for the notice to end tenancy to be valid or for cause by a strata corporation because of the potential impact on the owner who cannot dispute the notice to end tenancy but may wish to participate in the process. The process is not available for applications for orders of possession for conversion of a manufactured home park.

D. Onus on the Landlord

When making an application for dispute resolution through the landlord's direct request process, the landlord must provide copies of:

- the entire written tenancy agreement that contains all pertinent details for the application (e.g., rental unit address, date rent is due, etc.), signed by all parties to the agreement;
- documents showing changes to the tenancy agreement relevant to the application, such as notices of rent increases, or changes to the parties to the agreement or their agents;
- the relevant Notice to End Tenancy:
 - the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* ([form RTB-30](#)) (this is often considered proof that the tenant did not pay rent);
 - the *One Month Notice to End Tenancy for Cause or End of Employment* ([form RTB-33](#));
 - the *Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit* ([form RTB-32A](#));
 - the *Four Months' Notice to End Tenancy for Demolition or Conversion of a Rental Unit* ([form RTB-29](#)); or
- if seeking a monetary order for unpaid rent or utilities in relation to a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities*, the *Direct Request Worksheet* ([form RTB-46](#)) setting out the amount of rent or utilities owing, which may be accompanied by supporting documents such as a rent ledger or receipt book;

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- proof that the landlord served the tenant with the relevant Notice to End Tenancy using the *Proof of Service - Notice to End Tenancy and Written Demand to Pay Utilities* ([form RTB-34](#));
- if applicable, proof that the landlord served the tenant with the *Written Demand to Pay Utilities* using the *Proof of Service - Notice to End Tenancy and Written Demand to Pay Utilities* ([form RTB-34](#));

E. Proof of Service

Notice to End Tenancy

The landlord must prove the tenant was properly served with the relevant Notice to End Tenancy. A *Proof of Service Notice to End Tenancy and Written Demand to Pay Utilities* ([form RTB-34](#)) can be used for this purpose.

Because the tenant does not have an opportunity to participate and present evidence in a direct request proceeding, it is essential that the landlord provide substantive proof of service.

While a landlord may use any method of service allowed under RTA [section 88](#) and MHPTA [section 81](#) to serve the tenant with a Notice to End Tenancy, if the landlord cannot provide clear proof of service, the director's delegate ("the director") may dismiss the application with or without leave to reapply or adjourn it to be reconvened as an participatory hearing in which the tenant may participate.

The tables below set out the preferred methods of service and the additional methods of service allowed under the RTA and MHPTA. With the preferred methods, good evidence of service can be provided and are the least likely to result in a finding that the landlord has failed to provide clear proof of service. RTA [section 90](#), MHPTA [section 83](#), *Residential Tenancy Regulation* [section 44](#), and *Manufactured Home Park Tenancy Regulation* [section 60](#) establish that a document not served personally is deemed to be received a specified number of days after service, unless received earlier.

Preferred Methods of Service

Method of service	Proof of Service
Sending by registered mail	Canada Post Registered Mail receipt showing the date and time of purchase and printed tracking report

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Leaving a copy with the tenant in person	Hand-delivery receipt completed and signed by the tenant who received the document(s) stating what document(s) they received in person, the date and time of service and the name of the person who served the document(s) or Signed witness statement confirming the name of the person who served the document(s) by hand-delivering them to the tenant, what document(s) they served, the date and time of service and the name of the person the documents were served on
Leaving a copy in the tenant's mailbox or mail slot	Signed witness statement confirming the name of the person who served the document(s) by leaving them in the mailbox or mail slot, what document(s) they served, the date and time of service and the name of the person the documents were addressed to
Attaching a copy to the tenant's door or another conspicuous place at the address where the tenant resides	Signed witness statement confirming the name of the person who served the document(s) by attaching a copy to the door or another conspicuous place, what document(s) they served, the date and time of service, the name of the person the documents were addressed to, and, if the document(s) were not attached to the door, a description of the conspicuous place
Emailing a copy to an email address provided for service by the tenant	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 Form RTB-51 – Address for Service or other document that sets out the tenant's email address for service

Additional Methods of Service

Method of service	Proof of Service	Comments
Leaving a copy with an adult who apparently	Hand-delivery receipt completed and signed by the person who received the document(s) confirming that the person is an adult who resides with the tenant and stating what	Should include information on how the person serving the

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resides with the tenant	document(s) the person received in person, the date and time of service and the name of the person who served the document(s) or Signed witness statement confirming the name of the person who served the document(s) by hand-delivering them to an adult who apparently resides with the tenant, what document(s) they served, the date and time of service and the name of the person the documents were served on	document(s) knows the person receiving the document(s) is an adult who resides with the tenant
Faxing a copy to the fax number provided by the tenant as an address for service	Fax confirmation page	Not a preferred method of service unless the landlord provides verification that the fax number is the tenant's current fax number for service
Sending by ordinary mail	Service by ordinary mail cannot be confirmed	Not a preferred method of service

Demand for Payment of Utilities

Where applicable, the landlord must prove the tenant was properly served with a written demand for payment of utilities. A *Proof of Service Notice to End Tenancy and Written Demand to Pay Utilities* ([form RTB-34](#)) can be used for this purpose. The preferred and additional methods of service described above apply to the written demand.

The demand letter must include copies of the utility bills.

The demand letter must be received or deemed to have been received by the tenant at least 30 days before the landlord issued the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities*.

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Notice of Dispute Resolution Proceeding

The Residential Tenancy Branch will provide the applicant with a *Notice of Dispute Resolution Proceeding* and instruct the applicant to prepare and serve a package of documents on the tenant.

The landlord must serve the *Notice of Dispute Resolution Proceeding* package to each tenant named on the tenancy agreement within three days of the Residential Tenancy Branch making the *Notice of Dispute Resolution Proceeding* available, unless an extension of time is given.

The *Notice of Dispute Resolution Proceeding* package must include:

- the *Notice of Dispute Resolution Proceeding* which includes the *Landlord's Application for Dispute Resolution by Direct Request*;
- all evidence submitted by the landlord to the Residential Tenancy Branch for the determination of their application, including:
 - the relevant Notice to End Tenancy;
 - the signed written tenancy agreement;
 - documents showing changes to the tenancy agreement, if applicable;
 - the written demand to pay utilities, if applicable;
 - the *Proof of Service - Notice to End Tenancy and Written Demand to Pay Utilities* ([form RTB-34](#)) for the relevant Notice to End Tenancy and, where applicable, the written demand to pay utilities;
 - if seeking a monetary order for unpaid rent, the *Direct Request Worksheet* ([form RTB-46](#)) and supporting documents; and
 - supporting documentation relevant to the particular Notice to End Tenancy.

RTA [section 89\(2\)](#) and MHPTA [section 82\(2\)](#) require the *Notice of Dispute Resolution Proceeding* package to be served on the tenant:

- by registered mail;
- in person;
- by emailing it to an email address provided for service by the tenant;
- by attaching it to the tenant's door or in an equally conspicuous place. (Note:

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this method cannot be used if the application includes a request for a monetary order for unpaid rent/utilities as RTA [section 89\(1\)](#) or MHPTA [section 82\(1\)](#) applies to those applications); or

- by leaving a copy with an adult who apparently resides with the tenant. (Note: this method cannot be used if the application includes a request for a monetary order or unpaid rent/utilities as RTA [section 89\(1\)](#) or MHPTA [section 82\(1\)](#) applies to those applications).

See [Policy Guideline 12: Service Provisions](#).

Once the *Notice of Dispute Resolution Proceeding* package is served, the landlord must complete and submit to the Residential Tenancy Branch a *Proof of Service Landlord's Notice of Direct Request Proceeding* ([form RTB-44](#)) for each tenant served. The landlord may prove service for these methods of service as described in the earlier tables.

This Residential Tenancy Branch will provide this form to the landlord with the *Notice of Dispute Resolution Proceeding*. It may be used to obtain signatures from those receiving the package and/or from persons witnessing service of the package. Where applicable, a registered mail receipt and tracking form should be attached to the *Proof of Service Landlord's Notice of Direct Request Proceeding* ([form RTB-44](#)).

Documents served in the direct request process are deemed to be received based on the timelines established by RTA [section 90](#), *Residential Tenancy Regulation* [section 44](#), MHPTA [section 83](#) and *Manufactured Home Park Tenancy Regulation* [section 60](#).

F. Possible Outcomes

The possible outcomes of a landlord's direct request application are:

- an order of possession is issued for the effective date on the relevant Notice to End Tenancy if that date has not yet passed by the time of decision (plus a monetary order for the filing fee);
- an order of possession is issued with an effective date typically two days following service of the order if the effective date on the Notice to End Tenancy has passed and the tenant has not moved out (plus a monetary order for the filing fee);
- where an order of possession is issued because the tenant has not paid rent and/or utilities in full, a monetary order is issued for the unpaid rent and/or

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utilities, in addition to the recovery of the filing fee, if requested;

- the matter is adjourned to be reconvened as a participatory hearing in which the tenant may also participate;
- the matter is dismissed, with or without leave to reapply.

Order of Possession

The director may issue an order of possession if the director is satisfied of the following:

- the tenant did not file an application to dispute the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* ([form RTB-30](#)) within five days after receiving or being deemed to have received the notice.
- the tenant did not file an application to dispute the *One Month Notice to End Tenancy for Cause or End of Employment* ([form RTB-33](#)) within ten days after receiving or being deemed to have received the notice.
- the tenant did not file an application to dispute the *Two Month Notice to End Because the Tenant Does Not Qualify for Subsidized Rental Unit* ([form RTB-32A](#)) within fifteen days after receiving or being deemed to have received the notice.
- the tenant did not file an application to dispute the *Four Months' Notice to End Tenancy for Demolition or Conversion of a Rental Unit* ([form RTB-29](#)) within thirty days after receiving or being deemed to have received the notice.

With the order of possession, the director may also issue a monetary order for recovery of the filing fee if requested.

Order of Possession and a Monetary Order

The director may issue both an order of possession and a monetary order when:

- the landlord has proven the tenant failed to pay the full rent when due and/or the utility charges within 30 days after receiving a written demand for payment;
- the landlord has proven the tenant failed to pay all overdue rent and/or utilities listed on the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* (form RTB-30) in full within five days after receiving or being deemed to have received the notice;

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- the tenant did not file an application to dispute the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* (form RTB-30) within five days after receiving or being deemed to have received the notice; and
 - the landlord has proven what amount the tenant owes them at the time they submit their application.

Even when the application concerns a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* (form RTB-30), the director may issue an order of possession without an accompanying monetary order if the landlord:

- did not apply for a monetary order;
- did not prove the exact amount of rent and/or utilities that was not paid in full; or
- served the *Notice of Dispute Resolution Proceeding* package using a method other than registered mail or email to or personal service on the tenant(s).

Where the landlord applied for a monetary order but one is not granted, the application for a monetary order will be dismissed. If the director is satisfied that some rent and/or utilities are owed but could not determine the exact amount, the application will typically be dismissed with leave to reapply.

Adjourned with the Hearing Reconvened as a Participatory Hearing including the Tenant

The director may adjourn the matter and reconvene it as a participatory hearing in which the tenant can also participate if the director has questions about any of the materials submitted by the applicant, or if the director needs to make findings of credibility.

Dismissed

The director may dismiss, with or without leave to reapply, all or part of an application made through the direct request process.

The director will usually dismiss all or part of an application with leave to reapply when a landlord:

- has not provided all the required documents with the *Landlord's Application for Dispute Resolution by Direct Request*;

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- has not provided proof of service of the required documents; or
- has applied to retain the security deposit or pet damage deposit, or for a monetary order other than for the unpaid rent/utilities that are the basis of the direct request application, because these other matters cannot be determined through the direct request process.

The director may dismiss an application without leave to reapply when:

- a landlord fails to prove their claim; or
- the evidence indicates the landlord would not be successful in a hearing in which the tenant was a participant.

G. Policy Guideline Intention

The Residential Tenancy Branch issues policy guidelines to help Residential Tenancy Branch staff and the public in addressing issues and resolving disputes under the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*. This policy guideline may be revised and new guidelines issued from time to time.

H. Changes to Policy Guideline

Section	Change	Notes	Effective Date
Document	am	Added section numbers.	2015-10-07
A	am	Added content regarding restrictions of process.	2015-10-07
B	Am	Added requirement for Direct Request Worksheet.	2015-10-07
C.1	am	Revised content on proof of service of 10 Day Notice to End Tenancy and application to unpaid utilities.	2015-10-07
C.2	am	Added content regarding written demand to pay utilities.	2015-10-07
C.3	am	Revised to clarify timelines for serving the Notice of Direct Request Proceeding Package and requirements for proving service of the package.	2015-10-07

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D.1	am	Revised for clarity.	2015-10-07
D.2	am	Revised for clarity.	2015-10-07
A	am	Amended to allow recovery of filing fee.	2017-09-25
B	am	Amended to require written tenancy agreement and written demand to pay utilities, if applicable.	2017-09-25
C.2	am	Revised Proof of Service form name (RTB-34).	2017-09-25
C.3	Am	Amended to allow use of Proof of Service form (RTB-34) to prove service of written demand. Changed package name to Notice of Dispute Resolution Proceeding Package. Amended to require written tenancy agreement and written demand to pay utilities, if applicable.	2017-09-25
D, D.4	am	Amended to allow recovery of filing fee. Revised for clarity.	2017-09-25
D.1	am	Changed package name to Notice of Dispute Resolution Proceeding Package. Revised for clarity.	2017-09-25
D.3	am	Added content clarifying scheduling and landlord applications for subsequent notices to end tenancy.	2019-04-30
C.1, C.2	am	Amended to include email to an address provided by the tenant for service as an allowable method of service.	2021-09-17
All	am	Revised to new template	2023-10-02

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All	am	Updated to include notices to end tenancy for cause, end of employment, because the tenant does not qualify for subsidized rental unit, and demolition or conversion of a rental unit that are not disputed	2023-10-02
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Change Notations

am = text amended or changed

del = text deleted

new = new section added