



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of double the security deposit.

The tenants submitted a copy of a Canada Post Customer Receipt and envelope containing one Tracking Number to confirm the tenants sent the landlords a package by registered mail on March 2, 2020.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the tenant to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the tenant cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

In this type of matter, the tenants must prove they served the landlords with the Notices of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*.

Policy Guideline #49 on Tenant's Direct Request states that, once the package is served, the tenant must complete and submit a Proof of Service Tenant's Notice of Direct Request Proceeding form.

I find the tenants have not submitted a copy of the Proofs of Service of the Notices of Direct Request Proceeding as required by Policy Guideline #49.

Policy Guideline #12 on Service Provisions provides the following additional requirement:

"Where more than one party is named on an application for dispute resolution, each party must be served separately."

I find that the envelope submitted by the tenants shows that the tenants have placed both Notices of Direct Request Proceeding in the same envelope with multiple persons named. In an ex parte hearing, I find that I am not able to confirm service of the Notices of the Direct Request Proceeding to each of the parties individually as required by sections 71 and 89 of the *Act*.

For these reasons, the tenants' application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

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

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security deposit with leave to reapply.

I dismiss the tenants' 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: March 06, 2020

Residential Tenancy Branch