



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR

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 tenant for a Monetary Order for the return of the security deposit (the deposit).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 22, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord will be deemed to have been served with the Direct Request Proceeding documents on April 27, 2020, the fifth day after their registered mailing.

Issue(s) to be Decided

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

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenant submitted the following relevant evidentiary material:

- A copy of pages 1, 3, and 6 of a residential tenancy agreement which was signed by the landlord and the tenant on March 1, 2019, indicating a security deposit of \$405.00;
- A copy of an e-mail dated June 17, 2019, providing the forwarding address and requesting the return of the deposit;

- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that a forwarding address was sent to the landlord by registered mail at 5:00 pm on April 20, 2020;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm a forwarding address was in fact sent to the landlord on April 21, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet) showing the amount of deposits paid by the tenant and indicating the tenancy ended on May 31, 2019.

Analysis

In this type of matter, the tenant must prove that they served the landlord with the forwarding address in accordance with section 88 of the *Act*.

Section 88 of the *Act* allows for service by either sending the forwarding address to the landlord by mail, by leaving a copy with the landlord or their agent, by leaving a copy in the landlord's mailbox or mail slot, attaching a copy to the landlord's door or by leaving a copy with an adult who apparently resides with the landlord.

I find that the tenant has sent the forwarding address by e-mail on June 17, 2019, which is not a method of service as indicated above. The tenant has also not submitted a copy of a reply e-mail from the landlord or read receipts to demonstrate that the e-mail was received despite using a different method of service.

For the above reason, I find that the forwarding address dated June 17, 2019 has not been served in accordance with section 88 of the *Act*.

Therefore, I dismiss the tenant's application for a Monetary Order for the return of the security deposit based on the forwarding address dated June 17, 2019, without leave to reapply.

The tenant has also submitted a Proof of Service of the Forwarding Address and Canada Post Customer Receipt indicating that a forwarding address was sent to the landlord by registered mail.

I note that the tenant has not submitted a copy of the forwarding address that was sent by registered mail.

I also note that section 38(1) of the *Act* states that within fifteen days of the tenancy ending and the landlord receiving the forwarding address, the landlord may either repay the deposits or make an application for dispute resolution claiming against the deposits.

I find that the tenant applied for dispute resolution on April 21, 2020, the same day they sent forwarding address by registered mail, meaning tenant made their application for dispute resolution too early.

Therefore, I dismiss the tenant's application for a Monetary Order for the return of the security deposit based on a forwarding address sent by registered mail with leave to reapply.

Conclusion

The tenant's application for the return of the security deposit on the basis of the forwarding address dated January 6, 2020, is dismissed, without leave to reapply.

The tenant's application for the return of the security deposit on the basis of a forwarding address sent by registered mail with 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: April 23, 2020

Residential Tenancy Branch