



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-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 tenant for a Monetary Order for the return of the security deposit and the pet damage deposit (the deposits).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 22, 2020, the tenant served the Notice of Direct Request Proceeding by e-mail. The tenant provided a copy of an e-mail sent to the landlord on April 22, 2020, containing the Notice of Direct Request Proceeding as an attachment to confirm this mailing.

Issue(s) to be Decided

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

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

Analysis

In this type of matter, the tenant must prove they served the landlord with the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice.

Policy Guideline #49 on Tenant's Direct Request provides the following information:

"The 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 landlord.

The package must contain:

- 1) The Notice of Dispute Resolution Proceeding which includes the Application for Dispute Resolution;*
- 2) A copy of the signed tenancy agreement;*

- 3) *The forwarding address letter, the RTB-47 form, or the condition inspection report, if this was used to provide the forwarding address to the landlord;*
- 4) *The Proof of Service of Forwarding Address (Form RTB-41);*
- 5) *The Tenant's Direct Request Worksheet (Form RTB-40); and*
- 6) *Any other evidence submitted by the applicant."*

On the Proof of Service of the Notice of Direct Request Proceeding form, the tenant has indicated they served the Notice of Direct Request Proceeding. The tenant has not indicated whether they also served the supporting documents and evidence.

The tenant has submitted a copy of an e-mail containing the Notice of Direct Request Proceeding as an attachment. However, I find that the e-mail does not contain attachments of the tenancy agreement, the forwarding address, and all other supporting documents required to be served to the landlord in accordance with Policy Guideline #49.

I find the tenant has not served the complete Notice of Direct Request Proceeding package to the landlord, which is a requirement of the Direct Request process.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit is dismissed with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit with leave to reapply.

I dismiss the tenant'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: April 23, 2020