



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

The tenant submitted two Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on April 24, 2020, the tenant sent Landlord M.T. and Landlord Y.Y. the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that Landlord M.T. and Landlord Y.Y. will be deemed to have been served with the Direct Request Proceeding documents on April 29, 2020, the fifth day after their registered mailing.

The tenant submitted a third Proof of Service Tenant's Notice of Direct Request Proceeding form which declares that on April 24, 2020, the tenant sent Landlord B.T. the Notice of Direct Request Proceeding by e-mail.

I find that the tenant has not provided a copy of the outgoing e-mail showing the e-mail addresses used for the sender and recipient, to confirm service of the documents to Landlord B.T.

For this reason, I find I am not to confirm service of the Notice of Direct Request Proceeding to Landlord B.T.

The tenant has not submitted a copy of a Proof of Service Tenant's Notice of Direct Request Proceeding to establish service of the Direct Request Proceeding documents to Landlord D.R.V.

Therefore, I find I am not able to confirm service of the Notice of Direct Request Proceeding to Landlord D.R.V.

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*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 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 three residential tenancy agreements which name a landlord who is not one of the respondents and were signed by the tenant, indicating a monthly rent of \$5,950.00 and a security deposit of \$2,000.00;
- A copy of an e-mail from the tenant to the landlords dated March 30, 2020, 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 the forwarding address was sent to the landlords by e-mail at 2:43 pm on March 30, 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 deposit paid by the tenant and indicating the tenancy ended on March 31, 2020.

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.

I have reviewed all documentary evidence and I find that the rental addresses on the residential tenancy agreements submitted by the tenant do not match the rental address listed on the Application for Dispute Resolution.

I also find that the landlord named in the tenancy agreements does not match any of the landlords named as respondents in the Application for Dispute Resolution.

I find that these discrepancies in the tenancy agreements raise questions that can only be addressed through a participatory hearing.

Conclusion

I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. I find that a participatory hearing to be conducted by an arbitrator appointed under the *Act* is required in order to determine the details of the tenant's application.

Notices of Reconvened Hearing are enclosed with this interim decision. The applicant must serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon each of the landlords within three (3) days of receiving this decision in accordance with section 89 of the *Act*.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing. Fact sheets are available at <http://www2.gov.bc.ca/assets/gov/housing-and-tenancy/residential-tenancies/information-sheets/rtb114.pdf> that explain evidence and service requirements.

For more information see our website at: gov.bc.ca/landlordtenant. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

This interim 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 27, 2020