



Dispute Resolution Services

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

The tenant submitted a Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on May 4, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this 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*?

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 as per section 89 of the *Act* which permits service by sending a copy by registered mail to the address at which the landlord resides or carries on business as a landlord.

I find that the address indicated on the Proof of Service of the Notice of Direct Request Proceeding form and the Canada Post Customer Receipt is not the landlord's address for service as established in the tenancy agreement.

The tenant submitted a copy of an envelope containing a Canada Post Tracking Number to show that, on March 30, 2020, the forwarding address was sent to the landlord by registered mail to an address that also does not match the landlord's address on the tenancy agreement or the respondent's address on the Application for Dispute Resolution.

The tenant provided a copy of e-mails exchanged between the tenant and Person J.S. in which the tenant states the forwarding address was sent to an incorrect address and that the person who received the package dropped off the document on the landlord's doorstep.

However, I find that Person J.S. did not acknowledge receipt of the forwarding address on behalf of the landlord nor did they confirm correct the address for service of documents to the landlord.

I find I am not able to confirm service of the Notice of Direct Request Proceeding or the forwarding address to the landlord, which are requirements of the Direct Request process.

For this reason, the tenant's application for a Monetary Order for the return of the security 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 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: May 04, 2020

Residential Tenancy Branch