



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 tenants for a Monetary Order for the return of the security deposit and the pet damage deposit (the deposits).

The tenants submitted a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm a package was sent to the landlord on May 9, 2020.

Issue(s) to be Decided

Are the tenants 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*?

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

Analysis

In this type of matter, the tenants must prove they served the landlord with the Notice of Direct Request Proceeding. Policy Guideline #49 on Tenant's Direct Request provides the following requirements:

"Once the package is served, the tenant must complete and submit a Proof of Service Tenant's Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding"

I note that the tenants submitted a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm a package was sent to the landlord on May 9, 2020. However, the tenants have not provided a copy of the Proof of Service Tenant's Notice of Direct Request Proceeding form which is a requirement of the Direct Request process as detailed in Policy Guideline #49.

The tenants must also 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...”

The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the Tracking Number provided by the tenant with the Proof of Service Tenant's Notice of Direct Request Proceeding form is for a package sent by Canada Post's Xpress Post mailing, which may or may not require a signature from the individual to confirm delivery to the person named as the respondent.

In this case, Canada Post's Online Tracking System shows that a signature was not required for the delivery of this Xpress Post mailing and, as such, it does not meet the definition of registered mail as defined under the *Act*.

For these reasons, I dismiss the tenants' application for a Monetary Order for the return of the security deposit and the pet damage deposit 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

The tenants' application for a Monetary Order for the return of the security deposit and the pet damage deposit is dismissed with leave to reapply.

The tenants' application to recover the filing fee paid for this application is dismissed 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 12, 2020

Residential Tenancy Branch