



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 tenants for a Monetary Order seeking the return of their security deposit.

The tenants submitted two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on May 27, 2020, the tenants sent each of the landlords the Notice of Direct Request Proceeding by registered mail. The tenants provided copies of the Canada Post Customer Receipts and transaction receipts containing the Tracking Numbers to confirm these mailings.

Issue(s) to be Decided

Are the tenants entitled to a monetary award for the return of all or a portion of their security deposit pursuant to section 38 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 landlords with the Notice of Direct Request Proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit 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 Numbers provided by the tenants with the Proof of Service Tenant's Notice of Direct Request Proceeding forms are for packages sent by Canada Post's Xpress Post mailing service, which may or may not require a signature from the intended recipient to confirm delivery to the person named as the respondent.

In this case, Canada Post's Online Tracking System shows that signatures were not required for the delivery of these Xpress Post mailings and, as such, they do not meet the definition of registered mail as defined under the Act.

Since I find that the tenants have not served the landlords with notice of this application in accordance with section 89 of the Act, I dismiss the tenants' application for a Monetary Order for the return of their security 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 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: June 10, 2020

Residential Tenancy Branch