



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 for the return of the security deposit (the deposit).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on August 25, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post receipt containing the Tracking Number to confirm this mailing.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security 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 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 Tenant's Notice of Direct Request Proceeding form is not the landlord's address for service as established in the tenancy agreement. There is also no indication as to whether the landlord resides or carries on business as a landlord at this alternative address or whether they have provided the tenants this address for service of documents.

As I am not able to confirm service of the Notice of Direct Request Proceeding to the landlord, which is a requirement of the Direct Request process, the tenants' application

for a Monetary Order for the return of the security deposit is dismissed 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.

I also note the tenants have indicated on their Application for Dispute Resolution that they provided the landlord an e-mail address for the return of the deposit.

Section 38(1) of the *Act* states that a landlord must take action regarding the deposit within 15 days of the date the tenancy ended and the date the landlord received the tenant's forwarding address in writing.

If the tenants have only provided an e-mail address, the tenants may be required to provide the landlord a forwarding mailing address in order to be successful in a future Application for Dispute Resolution.

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security deposit with leave to reapply.

I dismiss the tenants' 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: August 31, 2020

Residential Tenancy Branch