



Dispute Resolution Services

Page: 1

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).

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*?

Background and Evidence

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 2, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

The tenants submitted a copy of page 3 of a rental agreement which was not signed by the landlord and does not indicate the amount of the rent or of the security deposit payable.

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.

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

Policy Guideline #49 on Tenant's Direct Requests provides the following:

"When a tenancy ends, a tenant must provide the landlord with a forwarding address so the landlord can return the security deposit and pet damage deposit"

The tenants have indicated that the forwarding address is the same as the tenants' original address listed on the tenancy agreement. However, there is no evidence to indicate that the tenants provided the landlord with a formal written forwarding address at the end of the tenancy, as required by Policy Guideline #49.

Furthermore, Policy Guideline #49 on Tenant's Direct Request provides the following requirements:

When making a request, an applicant must provide:

- A copy of the signed tenancy agreement **showing the initial amount of rent and the amount of security deposit and/or pet damage deposit required;**
- If a pet damage deposit was accepted after the tenancy began, a receipt for the pet damage deposit;
- A copy of the forwarding address given to the landlord;
- **A completed Proof of Service of Forwarding Address;**
- **A Tenant's Direct Request Worksheet;** and
- The date the tenancy ended.

I find that the rental agreement submitted by the tenants does not indicate the amount of rent and deposits required. The tenants have also not submitted a copy of the Proof of Service of Forwarding Address form or the Tenant's Direct Request Worksheet form.

I find that I am not able to consider the tenants' Application for Dispute Resolution without these documents which form a part of the Application.

For this reason, 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 the tenants are not entitled to recover the filing fee paid for this application.

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 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: September 03, 2020

Residential Tenancy Branch