



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 signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on October 11, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by registered mail.

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*.

On the Proof of Service of the Notice of Direct Request Proceeding, the tenant has indicated they sent the Notice of Direct Request Proceeding to the landlord by registered mail. However, I find that the tenant has not provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

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 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.

I also note that 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 tenant has not submitted a copy of the written tenancy agreement, the forwarding address provided to the landlord, the Proof of Service of Forwarding address form, or the Tenant's Direct Request Worksheet.

If the tenant does not have the documentation required for a Direct Request Proceeding, the tenant may consider reapplying through a participatory hearing.

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: November 23, 2020

Residential Tenancy Branch