



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 signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on November 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. Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the landlord is deemed to have been served with the Direct Request Proceeding documents on November 7, 2020, the fifth day after their registered mailing.

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*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on October 26, 2019, indicating a monthly rent of \$1,204.52, a security deposit of \$475.00, and a pet damage deposit of \$475.00;

- A copy of a notice to vacate which was signed by the tenants on July 11, 2020, indicating the tenancy would end as of August 31, 2020;
- A copy of a letter from the tenants to the landlord dated August 21, 2020, providing the forwarding address and requesting the return of the deposit;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was left in the living room of the rental unit at 7:37 pm on August 21, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet) showing the amount of deposits paid by the tenants and indicating the tenants vacated the rental unit on August 21, 2020.

Analysis

In this type of matter, the tenants must prove that they served the landlord with the forwarding address in accordance with section 88 of the *Act*.

Section 88 of the *Act* allows for service by either sending the forwarding address to the landlord by mail, by leaving a copy with the landlord or their agent, by leaving a copy in the landlord's mailbox or mail slot, attaching a copy to the landlord's door or by leaving a copy with an adult who apparently resides with the landlord.

In the special details section of the Proof of Service of the Forwarding Address, the tenants have indicated that they left the forwarding address in the living room of the rental unit, which is not a method of service as indicated above.

In their Application for Dispute Resolution, the tenants have indicated the landlord sent a text message acknowledging receipt of the forwarding address. However, I find the tenants have not submitted a copy of this text message to confirm the forwarding address was received, despite not being served in accordance with section 88 of the *Act*.

I find I am not able to confirm service of the forwarding address and for this reason, 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.

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

I dismiss the tenants' application for a Monetary Order for the return of the security deposit and pet damage 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: November 24, 2020

Residential Tenancy Branch