



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 the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail to two different addresses. The tenants provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings took place on November 5, 2020.

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.

The tenants have indicated in their Application for Dispute Resolution that the landlord has sold the rental property shortly after the tenants vacated and that a title search did not provide a mailing address for the landlord.

When submitted the Proof of Service Tenant's Notice of Direct Request Proceeding, the tenants have indicated they sent the Notice of Direct Request Proceeding to the landlord's previous address and to the address listed on the tenancy agreement.

However, I find there is no documentation or evidence to indicate whether the landlord can receive documents at either of the addresses listed on the Proof of Service Tenant's Notice of Direct Request Proceeding.

I find 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. 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 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 25, 2020

Residential Tenancy Branch