



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR

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 and the pet damage deposit (the deposits).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on November 28, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by e-mail.

Issue(s) to be Decided

Is the tenant 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*?

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.

In this type of matter, the tenant must prove that 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 either leaving a copy with the landlord or their agent or sending a copy by registered mail.

I find the Proof of Service Tenant's Notice of Direct Request Proceeding submitted by the tenant declares that on November 28, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by e-mail, which is not a method of service in accordance

with section 89 of the *Act*. The tenant has stated that the e-mail service was done in accordance with COVID guidelines.

I find the Residential Tenancy Branch issued a Director's Order allowing e-mail service on March 30, 2020. However, I find this was repealed by a subsequent Director's Order dated June 24, 2020. As such, I find that e-mail is not a currently recognized method of service.

I find the tenant has not served the Notice of Direct Request Proceeding to the landlord in accordance with section 89 of the *Act* or a valid Director's Order.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit is dismissed with leave to reapply.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit with 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: December 31, 2020

Residential Tenancy Branch