



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

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 double the security deposit and/or the pet damage deposit, and for the recovery of the filing fee paid to make the application.

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.

Policy Guideline #49 provides direction to tenants who apply to recover the security deposit and/or pet damage deposit. It confirms that once the Notice of Dispute Resolution Proceeding package is served on the landlord, the tenant must complete and submit a Proof of Service - Tenant’s Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding. Once the package is deemed served, the Branch can adjudicate the dispute. The language in Policy Guideline #49 is mandatory.

In this case, although the Tenants have provided some documentation in support of service by registered mail, I find that the Tenants have not provided a copy of a completed Proof of Service - Notice of Direct Request Proceeding to establish service of the Notice of Direct Request Proceeding documents on the Landlord.

As a result, I am not able to confirm service of the Notice of Direct Request Proceeding on the Landlord, which is a requirement of the Direct Request process. For this reason, I order that the Tenants' request for the return of the security deposit and/or the pet damage deposit is dismissed with leave to reapply. As the Tenants have not been successful, I also find the Tenants' request to recover the filing fee is dismissed 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: January 26, 2021

Residential Tenancy Branch