



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KS & SY HUNG HOLDINGS LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Code MNSDS-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 filed by the Tenant for a monetary order for the return of double the security deposit and/or the pet damage deposit.

The Tenant submitted a signed Proof of Service - Tenant's Notice of Direct Request Proceeding (the “Proof of Service”) which declares that the Tenant served the Landlord with the Notice of Direct Request Proceeding and supporting documents by registered mail on January 25, 2021. In support, the Tenant provided a copy of a delivery label. Tracking information on the delivery label was checked on the Canada Post website which indicated that the package was submitted to Canada Post on January 21, 2021 and delivered on January 22, 2021. A printout of Canada Post delivery information submitted by the Tenant confirms delivery on January 22, 2021 but states: “Signature unavailable or not requested.”

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 as per sections 89(1) and (2) of the *Act* which permit service “by sending a copy by registered mail...to the address at which the person carries on business as a landlord”.

The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the tracking information provided by the Tenant is for a package sent by Canada Post's Xpresspost but that a signature was not required for the delivery of this Xpresspost mailing. As a result, I find it does not meet the definition of registered mail as defined under the *Act* as delivery to a named person cannot be confirmed.

I also note the discrepancy in the dates of service provided on the Proof of Service document and the Canada Post delivery information provided by the Tenant.

Since I find that the Tenant has not served the Landlord with notice of this application in accordance with section 89 of the *Act*, I dismiss the Tenant's application for a monetary order for the return of a security 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: February 16, 2021

Residential Tenancy Branch