



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 a security deposit and/or a pet damage deposit.

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 they served the landlord with the *Notice of Direct Request Proceeding* with all the required inclusions as indicated on the *Notice of Direct Request Proceeding* as per section 89 of the *Act*.

Policy Guideline #49 states:

Serving of the Notice of Dispute Resolution Proceeding package

Once the package is served, 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.

[Reproduced as written.]

The language in Policy Guideline #49 is mandatory.

In this case, I have examined the documents submitted by the Tenant and note that they do not include *Proof of Service Notice of Direct Request Proceeding* documents as required under Policy Guideline #49. These forms would include statements establishing service of the *Notice of Direct Request Proceeding* and supporting documents on each Landlord. Without this accompanying statement, I find that I am not able to confirm what documents may have been served on the Landlords in accordance with Policy Guideline #49.

I also note the Tenant provided written submissions with the application indicating that documents were served on the Landlords by email. However, I was unable to identify any evidence to confirm the Landlords provided the Tenant with an email address specifically for the purpose of being served documents, or other evidence to confirm the email was received by the Landlords in accordance with Policy Guideline #12.

For the above reasons, I order that the Tenant's request for a monetary order for the return of a security deposit and/or a pet damage deposit is dismissed 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: March 17, 2021

Residential Tenancy Branch