



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-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 filed by the Tenants for a monetary order for the return of a security deposit and/or a pet damage deposit, and to recover the filing fee.

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 case, the Tenants submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding which declares that the Tenants served the Landlord with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on March 5, 2021. The Tenants provided a copy of an Xpresspost receipt containing the Tracking Number and a payment receipt to confirm this mailing.

However, these documents give rise to issues that cannot be addressed during a Direct Request Proceeding. In this type of matter, the Tenants must prove they served the Landlord with the Notice of Dispute Resolution Proceeding with all the required inclusions as indicated on the Notice of Dispute Resolution Proceeding 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 resides...”

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.”

Canada Post Xpresspost may or may not require a signature from the individual to confirm delivery to the person named as the respondent. In this case, Canada Post’s online tracking system shows that a signature was not available or was not requested. As a result, I find it does not meet the definition of registered mail as defined under the *Act* because delivery to a named person cannot be confirmed.

Since I have found that the Tenants have not served the Landlord with notice of this application by registered mail in accordance with sections 1 and 89 of the *Act*, I dismiss the Tenants’ application to recover the security deposit and/or pet damage deposit with leave to reapply.

As the Tenants were not successful in this application, I find that the Tenants’ request to recover the \$100.00 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: March 18, 2021

Residential Tenancy Branch