



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

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 tenants for a Monetary Order for the return of the security deposit (the deposit).

The tenants submitted two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on April 3, 2021, the tenants sent the landlord the Notice of Direct Request Proceeding by e-mail. The tenants provided a copy of the outgoing e-mails containing attachments of the supporting documents to confirm this service in fact took place on April 4, 2021.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement indicating a monthly rent of \$2,400.00, a security deposit of \$1,250.00, and a furniture deposit of \$1,250.00, for a tenancy commencing on November 1, 2019

- A copy of a letter from the tenants to the landlord providing the forwarding address and requesting the return of the deposit
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by e-mail at 1:00 am on July 2, 2020
- A copy of a Tenant's Direct Request Worksheet showing the amount of deposit paid by the tenants and indicating the tenancy ended on March 31, 2020

Analysis

In this type of matter, the tenants must prove that they served the landlord with the forwarding address in accordance with section 88 of the *Act*.

Section 88 of the *Act* allows for service by either sending the forwarding address to the landlord by mail, by leaving a copy with the landlord or their agent, by leaving a copy in the landlord's mailbox or mail slot, attaching a copy to the landlord's door or by leaving a copy with an adult who apparently resides with the landlord. Section 88 of the *Act* also allows service by a method ordered by the director.

The tenants have indicated they sent the forwarding address to the landlord on July 2, 2020, in accordance with the Director's Order during the COVID-19 pandemic.

On March 30, 2020, the Residential Tenancy Branch issued an order allowing for e-mail service due to the pandemic. However, I find that this temporary Director's Order was rescinded on June 24, 2020.

As such, I find that e-mail service was not an allowable method of service on July 2, 2020, when the tenants sent their forwarding address to the landlord.

For this reason, I find that the forwarding address has not been served in accordance with section 88 of the *Act*.

Therefore, I dismiss the tenants' application for the return of the security deposit based on the forwarding address sent by e-mail on July 2, 2020, without leave to reapply.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The tenants' application for the return of the security deposit based on the forwarding address sent by e-mail on July 2, 2020, is dismissed, without leave to reapply.

The tenants' application to recover the filing fee paid for this application 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: April 27, 2021

Residential Tenancy Branch