



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-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 double the security deposit and the pet damage deposit (the deposits).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 3, 2021, the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit and a pet damage 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 the first page of a residential tenancy agreement indicating a monthly rent of \$1,900.00, a security deposit of \$950.00, and a pet damage deposit of \$350.00
- A copy of an e-mail from the tenant to the landlord dated February 16th 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 3:00 pm on February 16, 2021
- A copy of two cheques from the landlord dated February 12, 2021 for \$51.00 and for \$991.94
- A copy of a Tenant's Direct Request Worksheet showing the amount of deposits paid by the tenants, an authorized deduction of \$125.00, a partial reimbursement of \$1,042.94, and indicating the tenancy ended on February 28, 2021

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.

I find that the tenants have sent the forwarding address by e-mail, which is not a method of service as indicated above. I find that the forwarding address has not been served in accordance with section 88 of the *Act*.

The tenants have indicated that the partial reimbursement of deposits is evidence that the landlord received the forwarding address. However, I find that the date of the cheques is February 12, 2021, before the forwarding address e-mail was sent to the landlord.

I find the tenants have failed to demonstrate that the landlord received the forwarding address despite using a method of service not recognized by the *Act*.

Therefore, I dismiss the tenants' application for the return of double the security deposit and the pet damage deposit based on the e-mail forwarding address dated February 16, 2021, 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.

If the tenants want to reapply requesting the deposits, the tenant may reissue the forwarding address and serve it in one of the ways prescribed by section 88 of the *Act*.

Conclusion

The tenants' application for the return of the security deposit and the pet damage deposit based on the e-mail forwarding address dated February 16, 2021, is dismissed, without leave to reapply.

The tenant's 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 28, 2021

Residential Tenancy Branch