



Dispute Resolution Services

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

The tenant submitted a copy of two Canada Post Customer Receipts containing tracking numbers to confirm packages were sent to the landlords by registered mail on April 28, 2021.

Issue(s) to be Decided

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

Is the tenant 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 tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenant on April 30, 2018, indicating a monthly rent of \$1,025.00 and a security deposit of \$512.50, for a tenancy commencing on May 1, 2018
- A copy of a text message sent from the tenant to the landlords on March 14, 2021, providing an e-mail address for the return of the deposit
- A copy of a Tenant's Direct Request Worksheet showing the amount of deposit paid by the tenant and indicating the tenancy ended on March 31, 2021

Analysis

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.

I note that the tenant submitted a copy of two Canada Post Customer Receipts containing tracking numbers to confirm packages were sent to the landlord on April 28, 2021. However, the tenant has not provided a copy of the Proof of Service Tenant's Notice of Direct Request Proceeding forms which are a requirement of the Direct Request process as detailed in Policy Guideline #49.

I also find that section 38(1) of the *Act* states that the landlord must either repay the deposits or make an application for dispute resolution claiming against the deposit within fifteen days of the tenancy ending and the landlord receiving the forwarding address in writing.

In order to apply for dispute requesting to keep the deposit, the landlord must provide a mailing address for the respondent.

I find that the tenant submitted a copy of a text message providing the landlord an e-mail address for the return of the deposit; however, I find the tenant did not specify that e-mail could also be used for service of documents.

I find that the e-mail address is not considered a forwarding address, as the tenant did not provide the landlords the opportunity to apply for dispute resolution in accordance with section 38 of the *Act*.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit based on the e-mail address is dismissed without leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

I note that section 88 of the *Ac*, 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 text message is not a method of service permitted by the *Act*. The tenant may issue the landlords a valid forwarding address, using one of the methods of service allowed under section 88 of the *Act* if the tenant would like to reapply for Direct Request for the return of the deposit.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit based on the e-mail address without leave to reapply.

I dismiss the tenant's application to recover the filing fee paid for this application 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: May 11, 2021

Residential Tenancy Branch