



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-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 by the Tenant for a monetary order for the return of a security 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.

The Tenant submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding which declares that the Tenant served the Landlord B.S.L.W. with the Notice of Dispute Resolution Proceeding and supporting documents by email on April 27, 2021.

In support, the Tenant submitted copies of emails to the Landlord B.S.L.W. dated March 10 and 26, and April 7, 2021. The email messages do not indicate the email address to which they were sent.

The Tenant also submitted what appears to be an undated email to the Landlord B.S.L.W. that depicts thumbnail images of the documents relied upon by the Tenant. As above, the email message does not indicate the email address to which it was sent.

Policy Guideline #12 states the following about service of these documents by email:

To serve documents by email, the party being served must have provided an email address specifically for the purposes of being served documents. If there is any doubt about whether an email address has been given for the purposes of giving or serving documents, an alternate form of service should be used, or an order for substituted service obtained.

[Reproduced as written.]

In this case, although the Tenant provided copies of several email messages the Tenant claims were sent to the Landlord, none contain the email address to which they were sent or include a response from the Landlord B.S.L.W. Accordingly, I find there is insufficient evidence before me to conclude the email messages were sent to an email address provided by the Landlord B.S.L.W. specifically for the purpose of giving or serving documents. As a result, I find I am unable to conclude that the Landlord B.S.L.W. was served with the above documents by email in accordance with the *Act* and Policy Guideline #12.

The Tenant did not submit a Proof of Service Tenant Notice of Direct Request Proceeding with respect to service of the Notice of Dispute Resolution Hearing and supporting documents on the Landlord J.C.S.P. as required under Policy Guideline #49. As a result, I find I am unable to confirm service of the above documents on the Landlord J.C.S.P. in accordance with the *Act* and Policy Guideline #49.

Considering the above, I order that the Tenant's request to recover the security deposit is dismissed with leave to reapply. This is not an extension of any applicable limitation period.

As the Tenant has not been successful, I order that the Tenant's request to recover the 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: May 12, 2021

Residential Tenancy Branch