



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code MNSDS-DR

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 Tenant for a monetary order for the return of a security deposit.

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.

Policy Guideline #49 provides direction to tenants making an application for the return of a security deposit by Direct Request. It confirms that the tenant must complete and submit a Proof of Service Tenant’s Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding. The language in Policy Guideline #49 is mandatory.

In this case, the Tenant submitted a copy of an email to the Landlord but did not submit a Proof of Service Tenant’s Notice of Direct Request Proceeding as required under Policy Guideline #49. As a result, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding and supporting documents on the Landlord in accordance with the *Act* and Policy Guideline #49.

In addition, Policy Guideline #12 states the following with respect to 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, the Tenant's application includes a copy of an email they claim was sent to the Landlord. The Tenant indicated the email address was used for communication during the tenancy. However, there is no response from the Landlord or confirmation that the email address used was given for the purpose of giving or serving documents. As a result, I find I am also unable to confirm service by email in accordance with Policy Guideline #12.

Considering the above, I order that the Tenant's request for the return of the security deposit is dismissed with 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 14, 2021

Residential Tenancy Branch