



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 May 21, 2021, the tenants sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request 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 an e-mail sent from the tenants to the landlord on April 1, 2021 providing the forwarding address and requesting the return of the deposits

- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit form (the forwarding address) dated April 13, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of deposits paid by the tenants and indicating the tenancy ended on March 31, 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. The tenants have also not submitted a copy of a reply e-mail from the landlord or any other evidence to demonstrate that the landlord received the forwarding address, despite using a method of service that is not permitted by the *Act*.

For this reason, 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 April 1, 2021, without leave to reapply.

The tenants have also submitted a copy of a forwarding address form dated April 13, 2021. However, I find the tenants have not submitted a copy of a Proof of Service of Forwarding Address form or any other document to establish the form forwarding address was served to the landlord.

For this reason, I dismiss the tenants' application for the return of double the security deposit and the pet damage deposit based on the form forwarding address dated April 13, 2021, with 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 and the pet damage deposit based on the e-mail forwarding address dated April 1, 2021, is dismissed, without leave to reapply.

The tenants' application for the return of the security deposit and the pet damage deposit based on the form forwarding address dated April 13, 2021 is dismissed with 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: May 28, 2021

Residential Tenancy Branch