



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* and dealt with an Application for Dispute Resolution filed by the Tenant for a monetary order for the return of a security deposit.

The Tenant submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding which declares that the Tenant served the Landlord with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on July 8, 2021. The Tenant provided copies of Canada Post receipts containing the tracking number in support of service in this manner. Pursuant to sections 89 and 90 of the *Residential Tenancy Act*, I find that the Landlord is deemed to have received these documents on July 13, 2021, five days after they were mailed.

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 a tenant making an application for dispute resolution by Direct Request. It confirms that a tenant must provide certain documents which include a copy of the signed tenancy agreement, a copy of the forwarding address given to the landlord, a copy of a completed Proof of Service of Forwarding Address (form RTB-41), a copy of a Tenant's Direct Request Worksheet (form RTB-40), and the date the tenancy ended. The language in Policy Guideline #49 is mandatory.

In this case, the Tenant has not provided the above documents and information as required under Policy Guideline #49. As a result, I find that the Tenant's request for a monetary order 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: July 20, 2021

Residential Tenancy Branch