



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 to obtain monetary compensation for the return of the security deposit (the deposit) and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenant on July 1, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 21, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of a UPS Shipment Receipt containing a tracking number to confirm this mailing.

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*?

Analysis

In this type of matter, the tenant must prove they served the landlord with the Notice of Dispute Resolution Proceeding - Direct Request and all documents in support of the application as indicated on the Notice as per section 89 of the *Act* which permits service “*by sending a copy by registered mail...*”

The definition of registered mail is set out in section 1 of the *Act* as “*any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*”

I find that the tracking number provided by the tenant is for a package sent by UPS and not by Canada Post. As such, I find it does not meet the definition of registered mail as defined under the *Act*.

I also find the tenant has not been granted an order for substituted service allowing the tenant to serve documents by a different method of service than what's required by the *Act*.

Finally, I find the tenant has not provided any evidence to demonstrate that the landlord received the Notice of Dispute Resolution Proceeding – Direct Request, despite using a method of service not permitted by the *Act*.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding – Direct Request to the landlord, which is a requirement of the Direct Request process.

For this reason, I dismiss the tenant's application for a Monetary Order for the return of the security deposit with 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.

Conclusion

The tenant's application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

The tenant's 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: August 09, 2021

Residential Tenancy Branch