



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* and dealt with an Application for Dispute Resolution by the Tenants 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.

In this case, the Tenants submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding which declares that the Tenants served the Landlord with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on July 22, 2021. These documents were served on the Landlord by mailing them to the rental property. Written submissions provided by the Tenants confirm the rental property was not the Landlord's home during the tenancy although the Landlord frequently attended the rental property.

Policy Guideline #39 permits service of the above documents by registered mail at the address at which the person carries on business as a landlord, or in person. I find there is insufficient evidence before me that the Landlord was served with these documents in accordance with Policy Guideline #39. Although the Landlord may have attended the rental property frequently, I find that the rental property is not the address where the Landlord carried on business as landlord. Therefore, I order that the Tenants' request for the return of the security deposit is dismissed with leave to reapply.

As the Tenants have not been successful, I order that the Tenants' 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: August 9, 2021

Residential Tenancy Branch