



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* and dealt with an Application for Dispute Resolution 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.

For the following reasons, I find that the documents submitted with the Tenant's application give rise to issues that cannot be resolved in a Direct Request Proceeding.

First, the Tenant submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding (the "Proof of Service") which declares that the Tenant served the Landlord with copies of supporting documents by hand delivery on June 23, 2021. There are two primary issues with this document: (1) it does not indicate that the Notice of Dispute Resolution Hearing was served on the Landlord in accordance with Policy Guideline #49, and (2) the current application was made on August 17, 2021, almost two months after the date the Tenant claims that supporting documents were served on the Landlord.

Second, the Tenant did not include a copy of the signed tenancy agreement showing the initial amount of rent and the amount of the security deposit as required under Policy Guideline #49.

Note: Documentation submitted by the Tenant includes a related file number, which has been reproduced above for ease of reference. On review of the related file, it appears that Tenant previously applied for the same relief sought in this application. However, the previous application was dismissed with leave to reapply because the Tenant did not submit a Proof of Service Tenant Notice of Direct Request Proceeding as required under Policy Guideline #49. Although the Tenant did submit the Proof of Service as part of the current application, it contains the problematic issues described above.

Considering the above, I order that the Tenant's application is dismissed with leave to reapply. This is not an extension of any applicable time limit established under the *Residential Tenancy Act*.

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: September 20, 2021

Residential Tenancy Branch