



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nest Property Management
and [tenant name suppressed to protect privacy]

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 tenant to obtain monetary compensation for the return of double the security deposit and the pet damage deposit (the deposits) and to recover the filing fee paid for the application.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding form which declares that on August 14, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by e-mail.

Issue(s) to be Decided

Is the tenant 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*?

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 per section 89 of the *Act*.

The tenant submitted a copy of a Proof of Service Tenant's Notice of Direct Request Proceeding form stating the tenant sent the Notice of Dispute Resolution Proceeding to the landlord by e-mail. However, I find the tenant has not submitted a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

I also note that section 89 of the *Act* provides that a Notice of Dispute Resolution Proceeding - Direct Request may be served “*by any other means of service provided for in the regulations.*”

Section 43(2) of the *Residential Tenancy Regulation* provides that documents “*may be given to a person by emailing a copy to an email address **provided as an address for service** by the person.*”

I find there is no evidence to demonstrate that the landlord indicated documents could be served by e-mail. I find the tenant has not demonstrated that the landlord’s e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the landlord and for this reason, the tenant’s application for a Monetary Order for the return of the security deposit and the pet damage deposit is dismissed with leave to reapply.

As the tenant was not successful in this application, I find the tenant is not entitled to recover the filing fee paid for this application.

Conclusion

I dismiss the tenant’s application for a Monetary Order for the return of the security deposit and the pet damage deposit with leave to reapply.

I dismiss the tenant’s application to recover the filing fee paid for this application 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: September 03, 2021

Residential Tenancy Branch