



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 tenants 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.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenants on August 5, 2021.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on August 26, 2021, the tenants sent Landlord J.S. the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on August 26, 2021 and are deemed to have been received by Landlord J.S. on August 31, 2021, the fifth day after their registered mailing.

The tenants also submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on August 26, 2021, the tenants sent Landlord R.S. the Notice of Dispute Resolution Proceeding - Direct Request by e-mail. The tenants provided a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

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.*”

The tenants have submitted a copy of an e-mail previously received from Landlord R.S. However, I find there is no evidence to demonstrate that Landlord R.S. specifically indicated documents could be served by e-mail.

I find the tenants have not demonstrated that Landlord R.S.'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 Landlord R.S. in accordance with the *Act* and the *Regulation*. For this reason, I will only proceed with the portion of the tenants' application naming Landlord J.S. as a respondent.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenants, indicating a monthly rent of \$1,650.00 and a security deposit of \$825.00, for a tenancy commencing on July 1, 2020
- A copy of two text messages from the tenants to the landlords dated July 3, 2021 and July 6, 2021, providing the forwarding address for the return of the deposit
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenants, a partial reimbursement of \$211.73, and indicating the tenancy ended on June 30, 2021

Analysis

In this type of matter, the tenants must prove that they served the landlords with the forwarding address in accordance with section 88 of the *Act*.

Section 88 of the *Act* allows for service by either sending the forwarding address to the landlord by mail, by leaving a copy with the landlord or their agent, by leaving a copy in the landlord's mailbox or mail slot, attaching a copy to the landlord's door or by leaving a copy with an adult who apparently resides with the landlord.

They tenants submitted documents showing they sent the forwarding address to the landlords by text message, which is not a method of service as indicated above.

For this reason, I find that the forwarding address has not been served in accordance with section 88 of the *Act*.

Therefore, I dismiss the tenants' application for the return of the security deposit based on the text forwarding addresses dated July 3, 2021 and July 6, 2021, without leave to reapply.

The tenants must reissue the forwarding address and serve it in one of the ways prescribed by section 88 of the *Act*, or according to Residential Tenancy Policy Guideline #49, if the tenants want to apply through the Direct Request process.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The tenants' application for the return of the security deposit based on the text forwarding addresses dated July 3, 2021 and July 6, 2021, is dismissed, without leave to reapply.

I dismiss the tenants' 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 10, 2021

Residential Tenancy Branch