



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR

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).

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenant on August 17, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 8, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of the Canada Post receipt and 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*?

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 tenant submitted the following relevant evidentiary material:

- A copy of the first three pages of a residential tenancy agreement which names a landlord who is not the respondent, indicating a monthly rent of \$1,035.00 and a security deposit of \$517.50, for a tenancy commencing on April 1, 2020
- A copy of an e-mail sent from the tenant to the landlord on August 5, 2021, providing the forwarding address, and requesting the return of the deposit
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenant and indicating the tenancy ended on August 1, 2021

Analysis

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

Section 88 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(1) 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 tenant sent the forwarding address by e-mail. However, 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(1) of the *Residential Tenancy Regulation*.

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

Therefore, I dismiss the tenant's application for the return of the security deposit based on the forwarding address dated August 5, 2021, without leave to reapply.

If the tenant wants to apply through the Direct Request process, the tenant may reissue the forwarding address and serve it in one of the ways prescribed by section 88 of the *Act* or, if reissuing the forwarding address by e-mail, provide sufficient evidence to demonstrate that the e-mail service complies with section 43(1) of the *Regulation*.

Conclusion

The tenant's application for the return of the security deposit based on the forwarding address dated August 5, 2021, 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: September 21, 2021

Residential Tenancy Branch