



Dispute Resolution Services

Page: 1

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 tenant to obtain monetary compensation for the return of the security deposit (the deposit) 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 which declares that on September 16, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by e-mail. The tenant provided a copy of an outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

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*?

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.

The tenant has indicated they served the landlord, Person H.S.A. the Notice of Dispute Resolution Proceeding – Direct Request by e-mail. However, I find the e-mail submitted by the tenant is addressed to Person M.A. and not to the landlord.

I also find there is no evidence to demonstrate the landlord provided this e-mail address for service of documents or that the landlord authorized Person M.A. as an agent to accept documents on their behalf.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the landlord, which is a requirement of the Direct Request process.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security 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: October 06, 2021

Residential Tenancy Branch