



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 to obtain monetary compensation for the return of the security deposit (the deposit) 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 on September 22, 2021.

The applicant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on October 3, 2021, the applicant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The applicant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Issue(s) to be Decided

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

Is the applicant 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 applicant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement indicating a monthly rent of \$2,600.00 and a security deposit of \$1,300.00, for a tenancy commencing on August 15, 2019

- A copy of a text message from the applicant dated September 13, 2021, providing the forwarding address, and requesting the return of the deposit
- A copy of a reply text also dated September 13, 2021
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form which indicates that the forwarding address was sent to the landlord by e-mail and text message on September 14, 2021

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the applicant 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 applicant 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.

I have reviewed all documentary evidence and I find that the tenant named on the tenancy agreement (Person H.N.T.) does not match the tenant named on the Application for Dispute Resolution by Direct Request (Person P.S.).

I also note that Policy Guideline #49 on Tenant's Direct Request provides that when making a request, an applicant must provide:

- A copy of the signed tenancy agreement showing the initial amount of rent and the amount of security deposit and/or pet damage deposit required.
- If a pet damage deposit was accepted after the tenancy began, a receipt for the pet damage deposit.
- A copy of the forwarding address given to the landlord.
- A completed Proof of Service of Forwarding Address.
- **A Tenant's Direct Request Worksheet.**
- The date the tenancy ended.

I find that the applicant has not submitted a copy of a Tenant's Direct Request Worksheet, which is a requirement of the Direct Request process.

I find these discrepancies raise questions that cannot be addressed in a participatory hearing.

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

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

Conclusion

I dismiss the applicant's request for a Monetary Order for the return of the security deposit with leave to reapply.

I dismiss the applicant's request 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: November 22, 2021

Residential Tenancy Branch