



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 May 4, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 11, 2021, the tenant served the landlord the Notice of Dispute Resolution Proceeding - Direct Request by handing the documents to Person D.C. The tenant had Person D.C. and a witness sign the Proof of Service Tenant's Notice of Direct Request Proceeding 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*?

Analysis

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

In this type of matter, the tenant must prove that they served the landlord with the Notice of Dispute Resolution Proceeding - Direct Request in a manner that is considered necessary as per sections 71(2) (a) and 89 of the *Act*.

On the Proof of Service Tenant's Notice of Direct Request Proceeding form the tenant has indicated they served the landlord (Person B.B.) by handing the documents to Person D.C. I find I am not able to confirm service of the Direct Request documents to the landlord.

I also note that Policy Guideline #49 on Tenant's Direct Request provides the following requirements:

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 tenant has not submitted a copy of a written tenancy agreement. The tenant has also not submitted a copy of the written forwarding address provided to the landlord, or of a Proof of Service of Forwarding Address form. Finally, I find the tenant has not submitted a copy of a Tenant's Direct Request Worksheet.

I further find that I am not able to consider the tenant's Application for Dispute Resolution without these documents which form a part of the Application.

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

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit with 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