



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

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 filed by the Tenants for a monetary order for the return of a security deposit and to recover the filing fee.

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.

Policy Guideline #49 provides direction to tenants making an application for the return of a security deposit and/or pet damage deposit by direct request. It confirms that the tenant must complete and submit a Proof of Service Tenant's Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding. The language in Policy Guideline #49 is mandatory.

In this case, the Tenants did not submit a Proof of Service Tenant's Notice of Direct Request Proceeding as required under Policy Guideline #49. Rather, the Tenants provided a written statement indicating that the "dispute notice" was served on the Landlord "by using Wechat App on Nov 30, 2021." A screen print was provided in support.

I also note that section 89(1) of the Act does not include the WeChat app as an approved method of service of an application for dispute resolution.

Considering the above, I find I am unable to confirm service of the Notice of Dispute resolution Proceeding and supporting evidence on the Landlord in accordance with section 89(1) of the Act and Policy Guideline #49. As a result, I order that the Tenants' request for the return of the security deposit is dismissed with leave to reapply. This is not an extension of any time limit established under the Act.

As the Tenant has not been successful, I order that the Tenants' request to recover the filing fee 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: January 19, 2022

Residential Tenancy Branch