



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KETTLE CREEK 2020 HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDB-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 Tenant for a monetary order for the return of a security deposit and a pet damage 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 Tenant submitted copies of Canada Post registered mail receipts in support of service. However, the Tenant did not provide a Proof of Service Tenant's Notice of Direct Request Proceeding which would include a statement establishing service of the Notice of Dispute Resolution Proceeding and supporting evidence on the Landlord. Without this statement, I find that I am not able to confirm service of these documents, which is a requirement of the Direct Request process.

For the above reasons, I order that the Tenant's request for a monetary order for the return of a security deposit and a pet damage deposit are dismissed with leave to reapply. This is not an extension of any time limit established under the Act.

As the Tenant was not successful in this application, I order that the Tenant's 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 14, 2022

Residential Tenancy Branch