



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 Tenant for a monetary order for the return of a security deposit and to recover the filing fee.

The Tenant submitted signed Proof of Service Tenant Notice of Direct Request Proceeding documents which declare that each of the Landlords was served with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on January 14, 2022. Service in this manner was supported by Canada Post registered mail receipts which confirm the date and time of purchase and provide the tracking numbers. Pursuant to sections 89 and 90 of the Act, I find that the Landlords are deemed to have received these documents on January 19, 2022, five days after they were mailed.

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 #39 confirms that a landlord making an application for dispute resolution by Direct Request must provide copies of certain documents, including documents showing changes to the tenancy agreement or tenancy, such as rent increases, or changes to parties or their agents.

I have reviewed all documentary evidence submitted and I find that the name of the landlord that appears in the tenancy agreement is different than the names of the individual Landlords that appear in the Tenant's application. This discrepancy is not supported by documents showing changes to the parties or their agents. As a result, I find there is insufficient evidence before me to show that the Tenant is entitled to relief from the individual Landlords named in the application.

This discrepancy in the landlord's name raises issues that cannot be addressed in a Direct Request Proceeding. As I am unable to confirm the correct legal name of the landlord, I find that the Tenant's request for a monetary order for the return of the security deposit is dismissed with leave to reapply.

As the Tenant is not successful, I find 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: February 8, 2022

Residential Tenancy Branch