



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 by the tenants 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 by the tenants on February 28, 2022.

The tenants submitted one signed Proof of Service Tenant's Notice of Direct Request Proceeding form which declares that on March 4, 2022, the tenants sent the landlords the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenants provided a copy of two Canada Post receipts containing the tracking numbers to confirm these mailings.

Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on March 4, 2022 and are deemed to have been received by the landlords on March 9, 2022, the fifth day after their registered mailing.

Issue(s) to be Decided

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

Are the tenants 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 tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords on April 29, 2020 and the tenants on May 3, 2020, indicating a monthly rent of \$2,000.00, a security deposit of \$1,000.00, and a pet damage deposit of \$500.00, for a tenancy commencing on June 1, 2020
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated November 24, 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 landlords by registered mail at 5:13 pm on November 24, 2021
- A copy of two Canada Post receipts containing the tracking numbers to confirm the forwarding address was sent to the landlords on November 24, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposits paid by the tenants, a partial reimbursement of \$727.00, and indicating the tenancy ended on July 15, 2021

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the tenants 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 tenants 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 note that the Tenant's Direct Request Worksheet indicates the landlord returned the full \$500.00 pet damage deposit and \$227.00 of the security deposit, for a total of \$727.00. However, on the Application for Dispute Resolution, the tenants have indicated the landlord returned \$777.00 of the deposits.

I find I am not able to confirm the precise amount of the security deposit owing and for this reason, the tenants' application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security deposit with leave to reapply.

I dismiss the tenants' application for the recovery of 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: March 28, 2022

Residential Tenancy Branch