



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 tenant to obtain monetary compensation for the return of the security deposit (the deposit) and to recover the filing fee paid for the application.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on March 25, 2022, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by e-mail.

The tenant provided a copy of an e-mail sent items folder showing four e-mails sent to the landlord.

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*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Analysis

In this type of matter, the tenant must prove they served the landlord with the Notice of Dispute Resolution Proceeding - Direct Request and all documents in support of the application as per section 89 of the *Act*.

Policy Guideline #49 on Tenant's Direct Request provides that service of the Notice of Dispute Resolution Proceeding – Direct Request by e-mail may be proven by providing:

- A copy of the outgoing email showing the email address used, the date the email was sent, and any attachments included in the email and
- The RTB-51 - Address for Service or other document that sets out the party's email address for service

The tenant has indicated they sent the Notice of Dispute Resolution Proceeding - Direct Request to the landlord by e-mail. The tenant submitted a copy of an e-mail sent items folder showing four e-mails were sent to the landlord.

However, I find the folder does not indicate the date the e-mails were sent, or the e-mail address used to send the e-mails. Furthermore, I note the document shows that attachments were sent with the e-mails, however the folder does not clearly show what documents were included as attachments.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the landlord and for this reason, the tenant's application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

As the tenant was not successful in this application, I find the tenant is not entitled to recover the filing fee paid for this application.

Conclusion

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

I dismiss the tenant's application to recover 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: April 20, 2022

Residential Tenancy Branch