



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-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 and the pet damage deposit (the deposits) 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 May 19, 2022.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on May 20, 2022, the tenants served the landlord the Notice of Dispute Resolution Proceeding - Direct Request by handing the documents to Person M.R., the new building manager. The tenants had a witness and Person M.R. sign the Proof of Service Notice of Direct Request Proceeding form to confirm this service.

Based on the written submissions of the tenants and in accordance with section 89 of the *Act*, I find that the Direct Request Proceeding documents were duly served to the landlord on May 20, 2022.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit and a pet damage 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 landlord and the tenants on March 3, 2021, indicating a monthly rent of \$1,338.00 and a security deposit of \$669.00, for a tenancy commencing on April 1, 2021
- A copy of a move out statement dated April 14, 2022, listing an address for the tenants
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposits paid by the tenants, an authorized deduction of \$50.00, a partial reimbursement of \$320.00, and indicating the tenancy ended on April 1, 2022

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.

Section 59 of the *Act* establishes that an Application for Dispute Resolution must "include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings."

Policy Guideline #49 on Tenant's Direct Request provides the following requirements:

When making a request, an applicant must provide:

- A copy of the signed tenancy agreement showing the initial amount of rent and the amount of security deposit and/or pet damage deposit required.
- If a pet damage deposit was accepted after the tenancy began, a receipt for the pet damage deposit.
- A copy of the forwarding address given to the landlord.
- A completed Proof of Service of Forwarding Address.
- A Tenant's Direct Request Worksheet.
- The date the tenancy ended.

I find that the tenants have not submitted a copy of a Proof of Service of Forwarding Address form. I note that the Application for Dispute Resolution by Direct Request states that the forwarding address was served to the landlord on March 28, 2022; however, I find the move out statement form listing the forwarding address is dated April 14, 2022.

I find I am not able to confirm precisely when the forwarding address was served to the landlord, which is a requirement of the Direct Request process.

I also find that the second page of the tenancy agreement states that there was no pet damage deposit paid for this tenancy. I note that the eleventh page of the agreement, the Pet and Barbecue Waiver section, states that the tenant is required to pay \$200.00 per pet. However, this document also does not indicate that the pet damage deposit was paid by the tenant.

Furthermore, I find the tenants have not submitted a copy of a receipt for payment of the pet damage deposit or any other documentation to confirm that a pet damage deposit was paid.

I find the tenants have not submitted the documents required for a Direct Request to confirm the details of the claim. For this reason, the tenants' application for a Monetary Order for the return of the security deposit and the pet damage 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 and the pet damage deposit with leave to reapply.

I dismiss the tenants' application for the return of 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: June 17, 2022

Residential Tenancy Branch