



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, FFT

Preliminary Matters

I note that Application for Dispute Resolution by Direct Request submitted by the tenant lists two identical applicant names. Section 64(3)(c) of the *Act* allows me to amend the application to remove the duplicate tenant, which I have done.

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 two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on May 20, 2022, the tenant sent each landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

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 landlords with the Notice of Dispute Resolution Proceeding - Direct Request and all documents in support of the application as indicated on the Notice as per section 89 of the *Act* which permits service "*by sending a copy by registered mail...*"

The definition of registered mail is set out in section 1 of the *Act* as "*any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person*

is available.” Policy Guideline #12 on Service Provisions goes on to clarify that this “includes Express post, if the signature option is used.”

I find that the tracking numbers provided by the tenant with the Proof of Service Tenant’s Notice of Direct Request Proceeding forms are for packages sent by Canada Post’s Express post mailing, which may or may not require a signature from the individual to confirm delivery to the person named as the respondent.

In this case, Canada Post’s Online Tracking System shows that a signature was not required for the delivery of these Express post mailings and, as such, they do not meet the definition of registered mail as defined under the *Act*.

Since I find that the tenant has not served the landlords with notice of this application in accordance with section 89 of the *Act*, I dismiss the tenant’s application for a Monetary Order for the return of the security deposit with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The tenant’s application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

The tenant’s application to recover the filing fee paid for this application 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: June 16, 2022

Residential Tenancy Branch