



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 double 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 June 7, 2022.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on June 17, 2022, the tenants sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this 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 landlord and the tenants on April 20, 2021, indicating a monthly rent of \$1,800.00 and a security deposit of \$900.00, for a tenancy commencing on May 1, 2021

- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated May 15, 2022
- A copy of a witnessed Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form which indicates that the forwarding address was left on the landlord's door mat at 10:30 pm on May 15, 2022
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenants, a partial reimbursement of \$269.25, and indicating the tenancy ended on April 30, 2022

Analysis

In this type of matter, the tenants 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* which permits service by sending a copy by registered mail to the address at which the landlord resides or carries on business as a landlord.

I find that the landlord's address for service does not appear on the tenancy agreement submitted by the tenants. There is also no other documentation from the landlord to demonstrate that the landlord resides or carries on business as a landlord at the address where the Direct Request documents were sent.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the landlord, which is a requirement of the Direct Request process. However, I find there is a more impactful issue with the tenants' application.

The tenants must prove that they served the landlord with the forwarding address in accordance with section 88 of the *Act*.

Section 88 of the *Act* allows for service by either sending the forwarding address to the landlord by mail, by leaving a copy with the landlord or their agent, by leaving a copy in the landlord's mailbox or mail slot, **attaching** a copy to the landlord's door or conspicuous place, or by leaving a copy with an adult who apparently resides with the landlord.

In the special details section of the Proof of Service of the forwarding address, the tenants have indicated that they placed the forwarding address on the landlord's doormat. I find the tenants have not indicated whether the forwarding address was attached or secured to the doormat.

As the forwarding address was not attached to a conspicuous place, I find that the forwarding address has not been served in accordance with section 88 of the *Act*.

Therefore, I dismiss the tenants' application for the return of double the security deposit based on the forwarding address dated May 15, 2022, without leave to reapply.

The tenants must reissue the forwarding address and serve it in one of the ways prescribed by section 88 of the *Act*, or according to Residential Tenancy Policy Guideline #49, if the tenants want to apply through the Direct Request process.

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

The tenants' application for the return of the security deposit based on the forwarding address dated May 15, 2022, is dismissed, without leave to reapply.

I dismiss the tenants' 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: July 11, 2022

Residential Tenancy Branch