



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 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 tenant on July 8, 2022.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 8, 2022, the tenant sent Landlord Q.G. the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on July 8, 2022 and are deemed to have been received by Landlord Q.G. on July 13, 2022, the fifth day after their registered mailing.

The tenant submitted a second signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 8, 2022, the tenant sent Landlord W.R. the Notice of Dispute Resolution Proceeding - Direct Request by e-mail. The tenant provided a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

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*?

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 tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by Landlord Q.G. and the tenant on September 21, 2020, indicating a monthly rent of \$750.00 and a security deposit of \$375.00, for a tenancy commencing on September 30, 2020
- A copy of a notice to vacate dated April 29, 2022, indicating the tenancy would end as of May 31, 2022, and providing an e-mail address for the return of the deposit
- 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 notice to end tenancy containing the forwarding e-mail address was served to the landlord in person and by e-mail on April 29, 2022
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenant and indicating the tenancy ended on May 31, 2022

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the tenant 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 tenant 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 38(1) of the *Act* states that within fifteen days of the tenancy ending and the landlord receiving the forwarding address, the landlord may either repay the deposit(s) or make an application for dispute resolution claiming against the deposit(s).

In order to submit an application through the Residential Tenancy Branch, the landlord is required to provide a mailing address for the respondent tenant.

I find that the tenant provided the landlords an e-mail address for the return of the deposit; however, the tenant has not provided a mailing address.

I find I am not able to determine whether the landlords had the opportunity to comply with section 38(1) of the Act by filing an application claiming against the deposit.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit based on the forwarding e-mail address of April 29, 2022, is dismissed without leave to reapply.

The tenant must issue a valid and complete forwarding mailing address to the landlords if the tenant wants to apply through the Direct Request process.

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

I dismiss the tenant's application for a Monetary Order for the return of the security deposit based on the forwarding e-mail address of April 29, 2022, without 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: July 27, 2022

Residential Tenancy Branch