



Dispute Resolution Services

Page: 1

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.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 28, 2022, the tenants sent Person R.P. the Notice of Dispute Resolution Proceeding - Direct Request by e-mail. The tenants provided a copy of an outgoing e-mail containing the Direct Request documents to confirm this service.

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*?

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*.

The Proof of Service Tenant's Notice of Direct Request Proceeding form indicates that the tenants served the Direct Request documents to an individual, Person R.P., which does not match the business landlord named on the Application for Dispute Resolution.

Furthermore, I note that the e-mail address listed on the Proof of Service Tenant's Notice of Direct Request Proceedings is an account associated with Person A.P., and not Person R.P. or the business landlord.

Finally, the tenants submitted a copy of a substituted service decision allowing the tenants to serve the landlord documents by e-mail for a previous dispute file. However, the tenants have not submitted any evidence demonstrating the tenants had the authorization of either the landlord or the Residential Tenancy Branch to serve documents by e-mail for this current dispute claim.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the landlord in accordance with the Act or the Regulation.

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 the tenants are not entitled to recover the 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 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: August 24, 2022

Residential Tenancy Branch