



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR

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 and the pet damage deposit (the deposits).

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenant on August 15, 2022.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on August 16, 2022, the tenant sent the landlord 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 August 16, 2022 and are deemed to have been received by the landlord on August 21, 2022, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the tenant 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*?

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 names a landlord who is not the respondent and was signed by the tenant on February 10, 2020, indicating a

monthly rent of \$750.00, a security deposit of \$375.00, and a pet damage deposit of \$375.00, for a tenancy commencing on March 1, 2020

- A copy of a notice to all residents indicating the landlord named as a respondent is the new property manager for the rental property
- A copy of a typed notice to vacate which was signed by the tenant on May 30, 2022, indicating the tenancy would end as of June 16, 2022
- A copy of a Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit (the forwarding address) dated August 15, 2022
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was provided to the landlord on the notice to vacate and on the condition inspection report
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposits paid by the tenant, and indicating the tenant vacate the rental unit on June 16, 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.

In this type of matter, the tenant must prove that they served the landlord with the forwarding address in a manner that is considered necessary as per sections 71(2) (a) and 88 of the *Act*.

I find the tenant has not submitted a copy of either the hand-written forwarding address on the notice to end tenancy, or the forwarding address written on the condition inspection report. I find I am not able to determine whether the tenant provided the landlord a complete and valid mailing address.

I also note that Policy Guideline # 49 states that Proof of service of the Forwarding Address may take the form of:

- registered mail receipt and printed tracking report;
- **a receipt signed by the landlord, stating they took hand delivery of the document(s); or**

- **a witness statement that they saw the tenant deliver the document(s).**

On the second page of the Proof of Service of the Forwarding Address there is no signature of a witness, or of the person who received the forwarding address, to confirm service of the forwarding address to the landlord.

I find I am not able to confirm service of the forwarding address to the landlord, which is a requirement of the Direct Request Proceeding.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit is dismissed with leave to reapply.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit and the pet damage deposit with 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: September 09, 2022

Residential Tenancy Branch