



Dispute Resolution Services

Page: 1

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 for a Monetary Order for the return of the security deposit (the deposit).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 27, 2020, the tenant sent Landlord L.S. the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipt and envelope containing the Tracking Number to confirm this mailing.

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 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 they served the landlords with the Notices of Direct Request proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit service "by sending a copy by registered mail to the address at which the person resides..."

The tenant must also prove that they served each landlord with the Notice of Direct Request in a manner that is considered necessary as per section 71(2) (a) of the *Act*.

Policy Guideline #12 on Service Provisions provides the following requirement:

“All parties named on an application for dispute resolution must be served separate notice of proceedings, including any supporting documents submitted with the application, as set out in the Legislation”

I find that the registered mail envelope submitted by the tenant shows that the tenant has sent one envelope with multiple persons named. Even when the landlords reside at the same address, the tenant must send two separate envelopes, one for each respondent.

In an ex parte hearing, I find that I am not able to confirm service of the Notices of the Direct Request Proceeding to each of the parties individually as required by sections 71 and 89 of the *Act*.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit is dismissed 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

I dismiss the tenant's application for a Monetary Order for the return of the security deposit with 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 28, 2020

Residential Tenancy Branch