



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSDS-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 tenants for a Monetary Order for the return of the security deposit and the pet damage deposit (the deposit).

The tenants submitted two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on September 17, 2020, the tenants personally served each of the landlords the Notice of Direct Request Proceeding.

### 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*?

### Analysis

In this type of matter, the tenants must prove that they served the landlords with the Notice of Direct Request Proceeding in a manner that is considered necessary as per sections 71(2)(a) and 89 of the *Act*. Policy Guideline # 49 contains the key elements that need to be considered when making an application for Direct Request.

Proof of service 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 Proof of Service Tenant's Notice of Direct Request Proceeding forms there is no signature of a witness, or a signature of the landlords, to confirm service of the Notice of Direct Request Proceeding documents to the landlords.

As I am not able to confirm service of the Notices of Direct Request Proceeding to the landlords, which is a requirement of the Direct Request Proceeding, the tenants'

application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security 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 18, 2020

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Residential Tenancy Branch