



# Dispute Resolution Services

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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 for a Monetary Order for the return of the security deposit and the pet damage deposit (the deposits).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 22, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by e-mail, in accordance with the Director's Order. The tenants provided a copy of the outgoing e-mail containing attachments of the supporting 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 the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as per section 89(1) of the *Act* which permits service by either leaving a copy with the person or their agent or sending a copy by registered mail to the address at which the person resides or carries on business as a landlord.

The tenants have indicated that they send the Notice of Direct Request Proceeding to the landlord by e-mail.

The Residential Tenancy Branch issued a Director's Order on e-mail service dated March 30, 2020 which provides that a document required to be served in accordance with sections 88 and 89 of the *Act* may be sent by e-mail and is considered received if:

- The person acknowledges having received the e-mail;

- The person replies to the e-mail; or
- The sender and recipient e-mail addresses have been routinely used for tenancy matters.

However, I find that the option to allow e-mail served was rescinded on June 24, 2020 by way of an updated Director's Order. As such, I find that e-mail is no longer an accepted method of service for documents.

Since I find that the tenants have not served the landlord with notice of this application in accordance with section 89 of the *Act*, 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.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

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.

The tenants' application to recover the filing fee paid for this application is dismissed 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: September 28, 2020

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Residential Tenancy Branch