



# Dispute Resolution Services

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

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on October 23, 2020, the tenants served the landlord the Notice of Direct Request Proceeding by handing the documents to Person A.R. The tenants had a witness sign the Proof of Service Tenant's Notice of Direct Request Proceeding to confirm this service.

### 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*?

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 Direct Request Proceeding with all the required inclusions as indicated on the Notice as per section 89 of the *Act*.

Section 89 of the *Act* allows for the Notice of Direct Request Proceeding to be given to the landlord by leaving a copy with the landlord's agent.

I find that the tenants have served the Notice of Direct Request Proceeding to the landlord by handing a copy to Person A.R. However, I find the tenants have not submitted any evidence to demonstrate that Person A.R. is an agent of the landlord.

I find I am not able to confirm service of the Notice of Direct Request Proceeding in accordance with section 89 of the *Act*, which is a requirement of the Direct Request Process.

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

I dismiss the tenants' application for a Monetary Order for the return of the security 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: November 09, 2020

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Residential Tenancy Branch