



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code MNSDB-DR

This matter proceeded by way of an *ex parte* Direct Request Proceeding pursuant to section 38.1 of the *Residential Tenancy Act* and dealt with an Application for Dispute Resolution by the Tenant for a monetary order for the return of the security deposit and/or the pet damage deposit.

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.

Policy Guideline #49 provides direction to tenants who apply to recover the security deposit and/or pet damage deposit. It confirms that once the Notice of Dispute Resolution Proceeding package is served, the tenant must complete and submit a Proof of Service Tenant's Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Residential Tenancy Branch with the Notice of Dispute Resolution Proceeding. Once the package is served, the Residential Tenancy Branch can adjudicate the dispute. The language in Policy Guideline #49 is mandatory.

In this case, although the Tenant has provided some documentation in support of service by registered mail, I find that the Tenant has not provided a copy of a completed Proof of Service of the Notice of Direct Request Proceeding to establish service of the Notice of Direct Request Proceeding documents on the Landlord.

I find that I am not able to confirm service of the Notice of Direct Request Proceeding on the Landlord, which is a requirement of the Direct Request process. For this reason, I order that the Tenant's application for the return of the security deposit and/or the pet damage deposit is dismissed 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: February 2, 2021

Residential Tenancy Branch