



# 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 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 January 17, 2021, the tenant sent Person D.W. the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post receipt 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*?

### Analysis

In this type of matter, the tenant 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* which permits service by sending a copy by registered mail to the address at which the landlord resides or carries on business as a landlord.

I find that the address indicated on the Proof of Service Tenant's Notice of Direct Request Proceeding form is not the landlord's address for service as established in the tenancy agreement.

I also note that the Proof of Service Tenant's Notice of Direct Request Proceeding form indicates the Notice of Direct Request Proceeding was sent to Person D.W. and not to the landlord. There is also no indication in the documentation or evidence that Person D.W. is an agent of the landlord or is authorized to accept documents on behalf of the landlord.

I find I am not able to confirm service of the Notice of Direct Request Proceeding to the landlord, which is a requirement of the Direct Request process.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

Conclusion

I dismiss the tenant's 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: February 11, 2021

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Residential Tenancy Branch