



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

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 filed by the Tenant for a monetary order for the return of the security deposit and/or the pet damage deposit, and for the recovery of the filing fee paid to make the application.

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.

In this case, the Tenant provided the following a written statement with the application:

*“I along with one witness went to [the Landlord’s] permanent address. [The Landlord] took the entire package from and refused to do any signature or initials. She even denied that she knew me, I brought this in attention to my witness and gave her the package”*

The Tenant also submitted a hand-written note signed by A.S. confirming service of “the full package of documents” on the Landlord on January 23, 2021

Policy Guideline #49 confirms that a tenant must complete and submit a Proof of Service - Tenant’s Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding.

I find that the Tenant has not provided a copy of a Proof of Service - Notice of Direct Request Proceeding to establish service of the Notice of Direct Request Proceeding documents on the Landlord. The hand-written note submitted by the Tenant does not satisfy this requirement.

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, the Tenant's application for a monetary order for the return of the security deposit and/or the pet damage deposit is dismissed with leave to reapply.

As the Tenant was not successful in this application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application. This aspect of the 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: February 18, 2021

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Residential Tenancy Branch