



# 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/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 Tenants submitted signed Proof of Service - Tenant's Notice of Direct Request Proceeding documents which declare that the Tenants served each of the Landlords with the Notice of Direct Request Proceeding and supporting documents by registered mail on February 25, 2021. The Tenants provided a copy of the Canada Post receipts containing the Tracking Numbers to confirm these mailings.

However, these documents give rise to issues that cannot be addressed during a Direct Request Proceeding. In this type of matter, the Tenants must prove they served the Landlords with the Notice of Direct Request Proceeding with all the required inclusions as indicated as per sections 89(1) and (2) of the *Act* which permit service “by sending a copy by registered mail to the address at which the person resides...”

The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the Tracking Numbers provided by the Tenants with the Proof of Service - Tenant's Notice of Direct Request Proceeding is for packages sent by Canada Post Xpresspost mailing, which may or may not require a signature from the individual to confirm delivery to the person named as the respondent. In this case, Canada Post's online tracking system shows that a signature was not available or was not requested. As a result, I find confirmation of delivery to a named person is not available. Therefore, I find it does not meet the definition of registered mail as defined under the *Act*.

Since I find that the Tenants have not served the Landlords with notice of this application in accordance with sections 1 and 89 of the *Act*, I dismiss the Tenants' application to recover the security deposit and/or the pet damage deposit with leave to reapply.

As the Tenants were not successful in this application, I find that the Tenants' request to recover the \$100.00 filing fee 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: March 11, 2021

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Residential Tenancy Branch