



# 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 double the security deposit (the deposit).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on March 21, 2021, the tenant sent the landlord the Notice of Direct Request Proceeding by e-mail. The tenant provided a copy of the e-mail containing attachments of the supporting documents to confirm this service.

### 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*.

Section 89 of the *Act* provides that a Notice of Direct Request Proceeding may be served "*by any other means of service provided for in the regulations.*"

Section 43(2) of the *Residential Tenancy Regulation* provides that documents "*may be given to a person by emailing a copy to an email address **provided as an address for service by the person.***"

I find that the tenant has served the Notice of Direct Request Proceeding to the landlord by e-mail. The tenant has submitted a copy of a Change of Management letter indicating that e-mail can be used to confirm payment of rent. However, I find there is no indication that the landlord has also agreed to use e-mail as an address for service of documents.

Furthermore, I note that the *Regulations* permitting e-mail served came into effect on March 1, 2021. The Change of Management letter providing the landlord's e-mail address is dated November 1, 2020.

I find that the landlord cannot have agreed to use e-mail as a method of service in accordance with the *Regulations* before the regulation permitting e-mail service existed.

I find the tenant has not demonstrated that the landlord's e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

I find I am not able to confirm service of the Notice of Direct Request Proceeding to the landlord and 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: April 08, 2021

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Residential Tenancy Branch