



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-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 by the Tenant for a monetary order for the return of a security deposit and/or a pet damage deposit and to recover the filing fee.

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 a tenant making an application for the return of a security deposit and/or pet damage deposit through the Direct Request process. It confirms that 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.

Policy Guideline #49 also confirms that a tenant must provide further documents and information to prove the landlord failed to comply with section 38 the *Residential Tenancy Act*. These include a copy of the signed tenancy agreement, a completed Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit (Form RTB-41) and a Tenant’s Direct Request Worksheet (Form RTB-40).

The language in Policy Guideline #49 is mandatory with respect to submission of the above documents.

After examining the evidence and submissions of the Tenant, I find the Tenant did not submit a Proof of Service Tenant's Notice of Direct Request Proceeding to confirm service of the Notice of Dispute Resolution Proceeding and supporting documents on the Landlord. I also find the Tenant did not submit a copy of the tenancy agreement, a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit, or a Tenant's Direct Request Worksheet.

Considering the above deficiencies, I order that the Tenant's request for the return of the security deposit and/or pet damage deposit is dismissed with leave to reapply.

As the Tenant has not been successful, I order that the Tenant's request to recover the 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: April 19, 2021

Residential Tenancy Branch