



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSDB-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 and the pet damage deposit (the deposits).

The tenant submitted a Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on April 29, 2021, the tenant personally served the landlord the Notice of Direct Request Proceeding.

### Issue(s) to be Decided

Is the tenant entitled to monetary compensation for the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 of the *Act*?

### Analysis

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 type of matter, the tenant must prove that they served the landlord with the Notice of Direct Request Proceeding in a manner that is considered necessary as per sections 71(2) (a) and 89 of the *Act*. Residential Tenancy Policy Guideline # 49 contains the details about the key elements that need to be considered when making an application for Direct Request.

Proof of service of the Notice of Direct Request Proceeding may take the form of:

- registered mail receipt and printed tracking report.

- **a receipt signed by the landlord, stating they took hand delivery of the document(s).**
- **a witness statement that they saw the tenant deliver the document(s).**

On the Proof of Service Tenant's Notice of Direct Request Proceeding form there is no signature of a witness, or a signature of the person who received the documents, to confirm service of the Notice of Direct Request Proceeding to 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 Proceeding.

For this reason, the tenant's application for a Monetary Order for the return of the security deposit and the pet damage 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 and the pet damage 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: May 13, 2021

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Residential Tenancy Branch