



# 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 to obtain monetary compensation for the return of the security deposit (the deposit).

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenant on July 13, 2021.

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 27, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by e- mail.

### 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*?

### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on January 20, 2021, indicating a monthly rent of \$2,575.00 and a security deposit of \$1,287.50, for a tenancy commencing on February 1, 2021
- A copy of an e-mail from the tenant to the landlord providing the forwarding address and requesting the return of the deposit

- A copy of an e-mail from the landlord to the tenant dated April 2, 2021, requesting the tenant complete the Address for Service form to allow the landlord and the tenant to serve each other documents using e-mail
- A copy of an Address for Service form which was signed by the tenant, providing the tenant's e-mail address for service of documents

### 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 they served the landlord with the Notice of Dispute Resolution Proceeding - Direct Request and all documents in support of the application as indicated on the Notice as per section 89 of the *Act*.

On the Proof of Service Tenant's Notice of Direct Request Proceeding, the tenant has indicated they sent the Notice of Dispute Resolution Proceeding - Direct Request to the landlord by e-mail. However, I find that the tenant has not provided a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the landlord, which is a requirement of the Direct Request process.

I also note that Policy Guideline #49 on Tenant's Direct Request provides the following requirements:

When making a request, an applicant must provide:

- A copy of the signed tenancy agreement showing the initial amount of rent and the amount of security deposit and/or pet damage deposit required.
- If a pet damage deposit was accepted after the tenancy began, a receipt for the pet damage deposit.
- A copy of the forwarding address given to the landlord.
- **A completed Proof of Service of Forwarding Address.**
- **A Tenant's Direct Request Worksheet.**
- The date the tenancy ended.

I find that the tenant has not submitted a copy of a Proof of Service of Forwarding Address form or a Tenant's Direct Request Worksheet. I further find that I am not able

to consider the tenant's Application for Dispute Resolution without these documents which form a part of the Application.

Finally, I find that the forwarding address e-mail submitted by the tenant does not indicate the date on which the e-mail was sent to the landlord. I find I am not able to confirm when the landlord received the forwarding address, which is a requirement of the Direct Request process.

For these reasons, 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: August 12, 2021

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Residential Tenancy Branch