



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDP-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 to obtain monetary compensation for the return of the pet damage deposit (the deposit) and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenants on July 19, 2021.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on July 31, 2021, the tenants sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by e-mail.

### Issue(s) to be Decided

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

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 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 tenants submitted the following relevant evidentiary material:

- A copy of the first page of a residential tenancy agreement indicating a monthly rent of \$2,100.00, a security deposit of \$1,050.00, and a pet damage deposit of \$300.00, for a tenancy commencing on June 1, 2020
- A copy of an e-mail from the tenants to the landlord dated July 8, 2021 providing the forwarding address and a reply e-mail from the landlord

- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposits paid by the tenants and indicating the tenants vacated the rental unit on June 30, 2021

### 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 tenants 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 tenants have not provided a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this service.

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 tenants have not submitted a complete tenancy agreement containing the signature of the landlord and the tenants. The tenants have also not submitted a copy of a Proof of Service Notice of Forwarding Address form. 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 note that the landlord's e-mail reply to the tenants' forwarding address is not dated. I find I am not able to confirm the exact date on which the landlord received the forwarding address.

I find these discrepancies raise questions that cannot be addressed in a participatory hearing. For this reason, the tenants' application for a Monetary Order for the return of the pet damage deposit is dismissed with leave to reapply.

As the tenants were not successful in this application, I find the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the pet damage deposit with leave to reapply.

I dismiss the tenants' application to recover the filing fee paid for this application 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: August 18, 2021

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Residential Tenancy Branch