



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSDS-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 double the security deposit (the deposit) and to recover the filing fee paid for the application.

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 12, 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 security 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*?

### Analysis

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 per section 89 of the *Act*.

Policy Guideline #49 on Tenant's Direct Request provides that proof of service of the Notice of Dispute Resolution Proceeding – Direct Request 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 documents.
- a witness statement that they saw the tenant deliver the document.
- **A copy of the outgoing e-mail and proof the landlord's e-mail was provided for service of documents**

The tenants have indicated they sent the Notice of Dispute Resolution Proceeding - Direct Request to the landlord by e-mail. However, I find the tenants have not submitted a copy of the outgoing e-mail showing the Direct Request documents were included as attachments. There is also no evidence to demonstrate that the landlord provided their e-mail address specifically 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 Dispute Resolution Proceeding - Direct Request to the landlord and for this reason, the tenants' application for a Monetary Order for the return of the security 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 filing fee paid for this application.

### Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security 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: September 28, 2021

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Residential Tenancy Branch