



# Dispute Resolution Services

Page: 1

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 double the security deposit (the deposit).

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

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 29, 2021, the tenant sent the landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

### 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, indicating a monthly rent of \$1,500.00 and a security deposit of \$750.00, for a tenancy commencing on October 1, 2019
- A copy of a move-out Condition Inspection Report dated "June 31, 2021" which was signed by the landlord, indicating the tenant provided a forwarding address at the time of the move-out inspection

- A copy of a text message from the tenant to the landlord dated July 30, 2021, providing the forwarding address and a reply text from the landlord also dated July 30, 2021
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by text message at 9:55 am on July 31, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenant, and indicating the tenancy ended on July 31, 2021

### Analysis

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 per section 89 of the Act which permits service by sending a copy by registered mail to the address at which the landlord resides or carries on business as a landlord.

I find that the Proof of Service Tenant's Notice of Direct Request Proceeding form and the Canada Post Customer Receipt shows the Direct Request documents were sent to the landlord's address for service as established in the tenancy agreement.

However, on the Condition Inspection Report, the landlord has provided an updated mailing address that was current at the time of move-out. This new address does not match the address on the Proof of Service Tenant's Notice of Direct Request Proceeding.

There is also no indication as to whether the landlord maintains two mailing addresses and still resides or carries on business as a landlord at the address where the Notice of Dispute Resolution Proceeding – Direct Request was sent.

Furthermore, Canada Post's online tracking system shows that the Direct Request documents sent by registered mail has not been successfully delivered.

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.

For this reason, 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: November 15, 2021

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Residential Tenancy Branch