



# Dispute Resolution Services

Page: 1

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 tenant to obtain monetary compensation for the return of the security deposit (the deposit) and to recover the filing fee paid for the application.

The tenant submitted a copy of a Canada Post receipt containing a tracking number to confirm a package was sent by registered mail on October 17, 2021.

### 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*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### 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*. Policy Guideline #49 on Tenant's Direct Request provides the following requirements:

*"Once the package is served, the tenant must complete and submit a Proof of Service Tenant's Notice of Direct Request Proceeding (Form RTB-50) which is provided by the Branch with the Notice of Dispute Resolution Proceeding"*

I note that the tenant submitted a copy of a Canada Post receipt containing a tracking number to confirm a package was sent by registered mail on October 17, 2021. However, I find the tenant has not provided a copy of the Proof of Service Tenant's Notice of Direct Request Proceeding form which is a requirement of the Direct Request process as detailed in Policy Guideline #49.

I also note that, in their Application for Dispute Resolution by Direct Request, the tenant has indicated that they did not provide the landlord a forwarding address as the landlord already had the tenant's e-mail address to e-transfer the deposit.

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

I find that a landlord is not obligated to return the deposit or file a claim against the deposit until after a forwarding address has been provided.

Furthermore, in order to file for dispute through the Residential Tenancy Branch, the application requires the landlord to provide a mailing address for the respondent tenant.

As the tenant did not provide a forwarding mailing address, I find the landlord did not have the opportunity to comply with section 38(1) of the *Act* by making an application for dispute claiming against the deposit.

For these reasons, the tenant's application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I dismiss the tenant's application for a Monetary Order for the return of the security deposit with leave to reapply.

I dismiss the tenant's 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: November 24, 2021

---

Residential Tenancy Branch