



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COSY SUITES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

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 filed by the Tenant for a monetary order for the return of a security deposit and to recover the filing fee.

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.

Policy Guideline #49 requires the tenant to provide the landlord with a Notice of Dispute Resolution Proceeding package which must include the following: the Notice of Dispute Resolution Proceeding; a copy of the signed tenancy agreement; the forwarding address letter, the RTB-47 form, or the condition inspection report; the Proof of Service of Forwarding Address (Form RTB-41); the Tenant's Direct Request Worksheet (Form RTB-40); and any other evidence submitted by the applicant.

Once these documents are provided to the tenant, Policy Guideline #49 confirms that 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.

In this case, the Tenant submitted Canada Post registered mail receipts in support of service. However, the Tenant did not submit a Proof of Service Tenant's Notice of Direct Request Proceeding (Form RTB-50) as required under Policy Guideline #49. As a result, I find I am unable to confirm service of the Notice of Dispute Resolution Proceeding package on the Landlords in accordance with the Act and Policy Guideline #49.

Considering the above, I order that the Tenant's request for a monetary order for the return of the security deposit is dismissed with leave to reapply.

As the Tenant has not been successful, I order that the Tenant's request to recover the filing fee is dismissed 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: February 23, 2022

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Residential Tenancy Branch