



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

### 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 indicated on the Notice as per section 89 of the *Act*.

Section 89 of the *Act* provides that a Notice of Dispute Resolution Proceeding - Direct Request may be served "*by any other means of service provided for in the regulations.*"

Section 43(2) of the *Residential Tenancy Regulation* provides that documents "*may be given to a person by emailing a copy to an email address **provided as an address for service by the person.***"

The tenant has stated they sent the Notice of Dispute Resolution Proceeding - Direct Request to the landlord by e-mail. However, I find there is no evidence to demonstrate that the landlord indicated documents could be served by e-mail.

I find the tenant has not demonstrated that the landlord's e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

The tenant has also not submitted a copy of any evidence such as a reply e-mail from the landlord or a "read receipt" to confirm the landlord received the Direct Request documents, despite not using a method of service permitted by the *Act* and the *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 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 the tenant is not entitled to recover the 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: August 18, 2021

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Residential Tenancy Branch