

## 49. Tenant's Direct Requests

---

### In This Guideline:

A. Takeaway .....	1
B. Related Guidelines .....	1
C. Legislative Framework.....	2
D. Tenant's Direct Request Process.....	3
E. Making a Direct Request for Return of a Deposit.....	4
F. Proving Service of the Forwarding Address .....	4
G. Notice of Dispute Resolution Proceeding .....	5
H. Outcomes .....	6
Monetary Order.....	6
Adjournment.....	7
Dismissed .....	7
I. Preferred Methods of Service .....	7
J. Policy Guideline Intention .....	8
K. Changes to Policy Guideline .....	9

### A. Takeaway

This policy guideline addresses the circumstances under which a tenant can make a direct request application for return of a security deposit and/or pet damage deposit.

Note: A landlord must not require or accept a security deposit or pet damage deposit in respect of a manufactured home site tenancy.

Keywords: direct request; security deposit; pet damage deposit.

### B. Related Guidelines

See [Policy Guideline 39 – Landlord's Direct Requests](#) for the landlord's direct request process.

See [Guideline 12 – Service Provisions](#) for how legal documents or orders must be served.

## 49. Tenant's Direct Requests

### C. Legislative Framework

The following sections describe Tenant's Direct Requests.

<i>Residential Tenancy Act (RTA)</i>	<i>Manufactured Home Park Tenancy Act (MHPTA)</i>
<ul style="list-style-type: none"> <li>• <a href="#">section 38(1)</a></li> <li>• <a href="#">section 38.1</a></li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>

RTA [section 38\(1\)](#) says that within 15 days after the later of (1) the date the tenancy ends and (2) the date the landlord receives the tenant's forwarding address in writing, a landlord must:

1. Repay a security deposit and/or pet damage deposit to the tenant with interest calculated in accordance with the regulations; or
2. Make an application for dispute resolution claiming against the security deposit or pet damage deposit.

The RTA states that if a landlord does not do either, they cannot claim against the deposit, and must pay the tenant double the amount of the security deposit, pet deposit, or both, as applicable, unless:

1. The Residential Tenancy Branch previously ordered the tenant to pay money to the landlord, and the tenant has not paid it;
2. The tenant agreed in writing that the landlord could keep the deposit to pay a liability or obligation;
3. The landlord offered the tenant at least two opportunities to inspect the unit at the beginning and end of the tenancy, and the tenant did not participate; or
4. If the landlord permitted the tenant to keep a pet after the start of a tenancy, the landlord offered the tenant at least two opportunities to inspect the unit on or before the day the tenant started keeping the pet, and the tenant did not participate.

Note that a tenancy agreement may not include as a term that the landlord automatically keeps all or part of the security deposit or the pet damage deposit at the end of the tenancy agreement.

## 49. Tenant's Direct Requests

Sep-23

---

[Section 38.1](#) of the RTA allows the director to make an order based only on the tenant's written application for the return of double the amount of a deposit. No participatory hearing is required. The Residential Tenancy Branch refers to this as the "direct request" process.

This process is only available if:

1. The landlord has not returned or made an application claiming against the deposit, or portion of the deposit, as required under [section 38\(1\)](#);
2. There is no order allowing the landlord to keep the amount in issue; and,
3. The tenant has not agreed in writing that the landlord can keep the amount in issue.

### D. Tenant's Direct Request Process

When a tenancy ends, if a tenant wants the landlord to return the security deposit and/or pet damage deposit, the tenant must provide the landlord with a forwarding address within one year after the end of the tenancy. The forwarding address must be a mailing address. The landlord has up to 15 days after the date the landlord receives the forwarding address in writing or the date the tenancy ends (whichever comes later), to return the deposit or apply to the Residential Tenancy Branch to keep it. If the landlord does neither and there is no relevant order or agreement and the tenant's right to return has not been extinguished, then a tenant may apply for return of the deposit(s), or portion of the deposit(s), by filing an application for dispute resolution.

However, tenants may be able to use a written process that is quicker than waiting for a participatory hearing, called a direct request. Tenants can submit a *Tenant's Application for Direct Request for Return of Security and/or Pet Damage Deposit* ([Form RTB-12T-DR](#)) 20 days after the tenancy has ended and the tenant gives the landlord their forwarding address (15 days to return the deposit(s) plus five days to account for the longest possible time for the landlord to be deemed to have received the forwarding address under the RTA). The tenant must have certain documents and must complete additional forms provided by the Residential Tenancy Branch in order to qualify for this process.

If a tenant does not have certain forms as described below, then the tenant must apply in the usual course, and attend a participatory hearing.

## 49. Tenant's Direct Requests

### E. Making a Direct Request for Return of a Deposit

To make a direct request for the return of a security deposit and/or pet damage deposit, or a portion of the deposit, an applicant must provide certain documents that prove the landlord failed to comply with [section 38\(1\)](#). When making a request, an applicant must provide:

1. A copy of the signed tenancy agreement showing the landlord's service address (or documents showing a change in the landlord's contact information from what was set out in the tenancy agreement), the initial amount of rent, the amount of security deposit required, and if applicable, the amount of pet damage deposit required;
2. If a pet damage deposit was accepted after the tenancy began, a receipt for the deposit;
3. A copy of the forwarding address letter given to the landlord ([Form RTB-47](#) is recommended, but not required) or a copy of the condition inspection report with the forwarding address provided;
4. A completed *Proof of Service – Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit* ([Form RTB-41](#)); and
5. A *Tenant's Direct Request Worksheet* ([Form RTB-40](#)).

### F. Proving Service of the Forwarding Address

The Residential Tenancy Branch has a recommended form a tenant may use to provide their forwarding address to their landlord: the *Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit* ([Form RTB-47](#)). The forwarding address can also be given in the form of a letter, in an email, or on the condition inspection report. An applicant must be able to prove they served the landlord with the forwarding address. If the tenant provided their forwarding address on the move-out condition inspection report, the director may accept the landlord's signature on the condition inspection report as confirmation of service.

The tenant must prove they properly served their forwarding address on the landlord. An applicant is required to complete the *Proof of Service – Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit* ([Form RTB-41](#)) for this purpose.

## 49. Tenant's Direct Requests

Sep-23

An applicant may use any of the methods of service allowed under [section 88](#) of the RTA to serve their forwarding address (see [Guideline 12 – Service Provisions](#)). However, using the [preferred methods of service](#) in the table on page 6 will lessen the likelihood of a direct request being adjourned to a participatory hearing in which the landlord can also participate. This is because under the preferred methods, good evidence of service can be provided.

[Section 90](#) of the RTA and section 44 of the *Residential Tenancy Regulation* set out when documents are deemed to have been received depending on the method of service. For example, a document sent by registered mail is deemed to have been received 5 days after it is mailed. A document sent by email is deemed to have been received on the third day after it is emailed.

### G. Notice of Dispute Resolution Proceeding

The Residential Tenancy Branch will provide the applicant with a *Notice of Dispute Resolution Proceeding* and instruct the applicant to prepare and serve a package of documents on the landlord.

The package must contain:

- 1) The *Notice of Dispute Resolution Proceeding* which includes the *Tenant's Application for Direct Request for Return of Security and/or Pet Damage Deposit* ([Form RTB-12T-DR](#));
- 2) All evidence submitted by the tenant to the Residential Tenancy Branch for the determination of their application, including:
  - a) A copy of the signed tenancy agreement;
  - b) A copy of a pet damage deposit receipt, if applicable;
  - c) A copy of the forwarding address letter or email, the *Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit* ([Form RTB-47](#)), or the condition inspection report used to provide the forwarding address to the landlord;
  - d) The completed *Proof of Service - Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit* ([Form RTB-41](#)); and
  - e) The *Tenant's Direct Request Worksheet* ([Form RTB-40](#)).

## 49. Tenant's Direct Requests

Sep-23

---

This package must be served within three days of the Residential Tenancy Branch making the Notice of Dispute Resolution Proceeding document available unless an extension of time is given.

RTA [section 89](#) requires the *Notice of Dispute Resolution Proceeding* package to be served on the landlord:

- by registered mail to the address at which the landlord resides or carries on business as a landlord;
- in person; or
- by emailing it to an email address provided for service by the landlord;

See [Policy Guideline 12: Service Provisions](#).

Once the package is served, the tenant must complete and submit to the Residential Tenancy Branch a *Proof of Service Tenant's Notice of Direct Request Proceeding* ([Form RTB-50](#)). The Residential Tenancy Branch will provide the tenant with a copy of this form along with the *Notice of Dispute Resolution Proceeding*.

Once the package is deemed received, the Residential Tenancy Branch can determine the dispute application.

### H. Outcomes

The possible outcomes for a tenant's direct request for the return of double the security deposit and/or pet damage deposit, or portion of the deposit(s), are:

1. A monetary order is issued requiring the return of double the amount of the outstanding security deposit and/or pet damage deposit (plus the filing fee);
2. The matter is adjourned to be reconvened as a participatory hearing in which the landlord may also participate; or
3. The matter is dismissed, with or without leave to reapply.

#### ***Monetary Order***

The director may issue a monetary order, if the director is satisfied that:

1. The tenant served the landlord with their forwarding address in writing and 15 days have elapsed since the landlord received or was deemed to have received the forwarding address (whichever is earlier);

## 49. Tenant's Direct Requests

Sep-23

2. The tenancy ended, and 15 days have elapsed since the end date;
3. There is no outstanding order for the tenant to pay money to the landlord;
4. There is no written agreement stating the landlord may retain the relevant amount from the deposit(s) to pay a liability or obligation of the tenant; and
5. The tenant's right to return of the deposit(s) was not extinguished.

### ***Adjournment***

The director may adjourn the matter to a participatory hearing in which the landlord can also participate if the director has questions about any of the materials submitted by the applicant, or if the director needs to make findings of credibility.

### ***Dismissed***

The director may dismiss all or part of the application, with or without leave to reapply, if the applicant:

- has not provided all the required documents with the application;
- has not provided proof of service of the required documents;
- has applied for a monetary order on the basis of something other than the landlord's failure to return a security deposit or pet damage deposit; or
- the evidence indicates the tenant would not be successful in a hearing in which the landlord was a participant.

### **I. Preferred Methods of Service**

<b>Method of service</b>	<b>Proof of Service</b>
Registered mail	Canada Post Registered Mail receipt showing the date and time of purchase and printed tracking report
Leaving a copy with the landlord in person	Hand-delivery receipt completed and signed by the landlord who received the document(s) stating what document(s) they received in person, the date and time of service and the name of the person who served the document(s) or

## 49. Tenant's Direct Requests

	Signed witness statement confirming the name of the person who served the document(s) by hand-delivering them to the landlord, what document(s) they served, the date and time of service and the name of the person the documents were served on
Leaving a copy in the landlord's mailbox or mail slot	Signed witness statement confirming the address, name of the person who served the document(s) by leaving them in the mailbox or mail slot, what document(s) they served, the date and time of service, and the name of the person the documents were addressed to
Attaching a copy to the door or other conspicuous place at which the landlord resides or carries on business as a landlord	Signed witness statement confirming the address, name of the person who served the document(s) by attaching a copy to the door or other conspicuous place at which the landlord resides or carries on business as a landlord, what document(s) they served, the date and time of service, and the name of the person or business the documents were addressed to
Faxing a copy to the landlord's fax number provided for service of documents	A copy of the fax transmission report, and A separate confirmation that the fax number is the landlord's current fax number or the fax number the landlord provided for service, indicating that they can receive documents at the fax number
Emailing a copy to an email address provided for service by the landlord	A copy of the outgoing email showing the email address used, the date the email was sent, and any attachments included in the email, and <a href="#">Form RTB 51</a> – Address for Service or other document that sets out the landlord's email address for service

### J. Policy Guideline Intention

The Residential Tenancy Branch issues policy guidelines to help Residential Tenancy Branch staff and the public in addressing issues and resolving disputes under the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*. This policy guideline may be revised and new guidelines issued from time to time.



**49. Tenant's Direct Requests****K. Changes to Policy Guideline**

<b>Section</b>	<b>Change</b>	<b>Notes</b>	<b>Effective Date</b>
All	New	New guideline in effect	2020-01-18
Table	am	Amended to include email to an address provided by the landlord for service as a method of service	2021-09-17
All	am	Revised for clarity	2022-05-10
All	am	Revised to new template	2023-10-02

## Change Notations

am = text amended or changed

del = text deleted

new = new section added