



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNSD, RPP

### Introduction / Background / Evidence

This hearing concerns an application by the tenants for a monetary order for the double return of the security deposit / and an order instructing the landlord to return the tenants' personal property. Both tenants participated in the hearing and gave affirmed testimony.

The tenants claim that they sent the application for dispute resolution and the notice of hearing (the "hearing package") to the landlord by way of registered mail. Evidence provided by the tenants includes a Canada Post tracking number for the registered mail. The Canada Post website informs that the package was "accepted at the Post Office" on June 5, 2012. Further, however, the Canada Post website informs that the package was "successfully returned to the sender," and the signature of the sender is identified on the Canada Post website as the landlord.

The subject unit is a manufactured home located within a manufactured home park. The tenants claim that an "intent to rent" form was as close as the parties got to having a written tenancy agreement, for a month-to-month tenancy which began on or about September 1, 2011. Monthly rent was \$750.00 and a security deposit of \$375.00 was collected (\$187.50 paid by each tenant). The landlord evicted the tenants on or about October 31, 2011 and disposed of whatever miscellaneous possessions they had no opportunity to remove. The tenants claim that rent was paid in full for September and October 2011, and that the landlord did not return their security deposit. The tenants claim that the address for the landlord as shown on their application for dispute resolution was provided to them on the "intent to rent" form. The tenants did not provide the landlord with their forwarding address in writing.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

The tenants filed their application on May 8, 2012, and the Notice of a Dispute Resolution Hearing is dated May 9, 2012. Section 59 of the Act which speaks to **Starting proceedings**, provides in part as follows:

59(3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

Mailing information provided by the tenants, in combination with information provided on the Canada Post website, does not enable me to find that the hearing package could be deemed to be served on the landlord in compliance with the above statutory provisions.

Further, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**, and provides in part as follows:

38(1) Except as provided in subsection (3) or (4)(a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

### Conclusion

Following from all of the above, the tenants' application is hereby dismissed 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: July 04, 2012.

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Residential Tenancy Branch