



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNSD, FF

### Introduction

This hearing concerns an application by the tenant for a monetary order as compensation for the double return of the security deposit / and recovery of the filing fee. The tenant participated in the hearing and gave affirmed testimony.

The tenant mailed the application for dispute resolution and the notice of hearing (the "hearing package") to the landlords by way of registered mail. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was unclaimed and later "successfully returned to the sender."

The tenant testified that she mailed the hearing package to the landlords at an address in relation to which they had informed her they reside. The tenant submitted a copy of the results of a land title search which names the landlords as owners of the subject property used by the tenant for mailing the hearing package to the landlords.

### Issue(s) to be Decided

Have the landlords been properly served with the hearing package and, if so, is the tenant entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement which names the tenant / applicant as well as 2 other tenants, the month-to-month tenancy began on May 1, 2012. Monthly rent of \$1,850.00 was due and payable in advance on the first day of each month. A security deposit in the total amount of \$925.00 was collected. The tenancy agreement notes that \$310.00 of the security deposit was collected from the tenant / applicant in this proceeding, whereas an additional \$615.00 was collected from the other 2 tenants. Evidence includes a receipt issued to the tenant / applicant in exchange for her portion of the "security deposit" of \$310.00.

The tenant testified that she gave one month's notice to end the tenancy effective July 31, 2012, by way of e-mail dated on or about June 30, 2012. A copy of this e-mail is not in evidence. By letter dated July 30, 2012 the tenant informed the landlords of her forwarding address for purposes of the return of her security deposit; while a copy of this letter is in evidence, it is not clear to what address it was sent. The tenant testified that, to date, no portion of the security deposit has been returned to her.

The tenant testified that it appears as though the other 2 tenants have also now vacated the unit, although she cannot confirm exactly when this may have occurred.

### 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)

In relation to service of documents, section 89 of the Act speaks to **Special rules for certain documents**, and provides in part as follows:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71(1) [*director's orders: delivery and service of documents*].

Further, section 71 of the Act addresses **Director's orders: delivery and service of documents**, in part as follows:

71(1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

I note that the written tenancy agreement clearly provides that the “address for service” of the landlords is identical to the address of the rental unit. While the title search document submitted into evidence by the tenant identifies the landlords as owners of the address used for mailing of the hearing package, there is no conclusive documentary evidence before me which speaks to that address as the address where the landlords either reside or carry out business as landlords. Additionally, the tenant has not applied for “substituted service” pursuant to section 71 of the Act. In the result, the tenant’s application is hereby dismissed with leave to reapply.

Finally, below for information, the attention of the parties is drawn to certain Guidelines in addition to particular sections of the Act.

Guideline #12: “Service Provisions”

Guideline #13: “Rights and Responsibilities of Co-Tenants”

Section 38: **Return of security deposit and pet damage deposit**

### Conclusion

Following from all of the above, the tenant’s 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: November 05, 2012.

---

Residential Tenancy Branch