



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNSD, FF

### Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant requested a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that on April 5, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail at the address noted on the Application. On April 27, 2013 the mail was returned as unclaimed. The tenant used the landlord address that had been included on a "Notice of Tenant Responsibilities" form given to her by the landlord at the start of the tenancy.

A refusal to claim registered mail does not allow a party to avoid service; therefore, I find that the documents were deemed served to the landlord on the 5<sup>th</sup> day after mailing. The landlord did not attend the hearing.

### Issue(s) to be Decided

Is the tenant entitled to return of the security deposit paid?

Is the tenant entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on December 18, 2011; rent was \$1,200.00 per month, due on the first day of each month. A security deposit in the sum of \$600.00 was paid. A tenancy agreement was not signed.

Condition inspection reports were not completed.

The tenant gave the landlord 2 months notice she was going to vacate; August 2012 rent was paid and in mid-August the tenant vacated.

The tenant sent either a text message or email to the landlord, requesting return of the deposit. The landlord did not respond and has not returned the deposit. The tenant could not recall when the address was sent to the landlord.

### Analysis

As the tenant paid August rent owed, pursuant to section 44(f) of the Act, I find that the tenancy ended effective August 31, 2012.

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit.

As the tenant could not prove when she had served the landlord with her written forwarding address, I find that the tenant's application requesting return of the deposit was premature.

Therefore, I find that the tenant's application is dismissed with leave to reapply within 1 year of the date the tenancy ended.

### Conclusion

The application is dismissed with leave to reapply no later than August 31, 2013.

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: June 27, 2013

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Residential Tenancy Branch

