



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF, O

### Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord to keep the Tenant’s security deposit, to recover the filing fee for the cost of making the Application and for ‘Other’ issues which were identified as a monetary claim for damage or loss under the *Residential Tenancy Act* (the “Act”).

The Landlord appeared late for the hearing. The Tenant failed to appear for the hearing and provided no evidence prior to the hearing. The hearing continued in the absence of the Tenant.

The Landlord was issued the Notice of Hearing documents by the Residential Tenancy Branch on December 24, 2013. The Landlord testified that he had served the Tenant with the Notice of Hearing documents to the Tenant’s forwarding address (provided by the Tenant in August, 2013) on the same day he was given the paperwork. However, the Landlord was unable to produce during the hearing or prior to the hearing, evidence that the Tenant had been served as required by Section 59(3) of the Act, which requires the documents to be served within 3 days. The Landlord was allowed 20 minutes to search for the tracking number, but was only able to provide two registered mail tracking numbers; one related to a date before the hearing documents were issued to the Landlord and the other one indicates a date one month later from the date the Landlord received the documents.

### Analysis & Conclusion

As the Tenant did not appear for the hearing to verify that the hearing documents were received, I am not satisfied that the Landlord has provided sufficient evidence that the Tenant was served in accordance with the Act. As a result, I dismiss the Landlord’s Application with leave to reapply.

At the end of the hearing, the Landlord mentioned that there had been a hearing in December, 2013 relating to the Tenant's Application which he failed to appear for (the file number for this hearing is documented on the front page of this decision).

I note from the decision made in relation to this file number provided that the Landlord was ordered to pay double the amount of the security deposit back to the Tenant pursuant to Section 38(1) and Section 38(6) of the Act. Therefore as the security deposit has already been dealt with, a Landlord's Application to keep the Tenant's security deposit cannot be heard again. However, the Landlord is at liberty to apply for monetary compensation for damage or loss under the Act, regulation or tenancy agreement.

The Landlord indicated that he was not familiar with the hearing process and the evidence requirements. As a result, the Landlord is encouraged to seek assistance through an agent or an advocacy group. The Landlord is also able to get information on the process from an Information Officer or the Residential Tenancy Branch website, the details of which are on the next page.

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: April 10, 2014

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Residential Tenancy Branch

