



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for return of double the security deposit and pet damage deposit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

### Issue to be Decided

Is the tenant entitled to the return of double the security deposit and pet damage deposit?

### Background and Evidence

The tenancy began on June 1, 2013. Rent in the amount of \$975.00 was payable on the first of each month. A security deposit and pet damage deposit totaling \$731.25 were paid by the tenant.

The tenant testified that she sent her forwarding address by email to the landlord on March 31, 2014. The tenant stated that she did not receive her security deposit or pet damage deposit within 15 days.

The tenant testified that she received two envelopes for the landlord, the first envelope was post marked April 16, 2014 and the second envelope was post marked April 22, 2014. Both envelopes were received on April 24, 2014 and both contained a cheque for her deposits, although the first cheque was not cashable because the landlord placed a stop payment as the landlord believed the first envelope was lost in the mail.

The landlord testified that she did not look at the tenant's email until April 1, 2014 and she sent the tenant's deposits by mail on April 11, 2014. The landlord stated she is not sure why it was post marked April 16, 2014, but was told by Canada post it was

because it is the way the mail is diverted to the sorting station. The landlord stated any delay in the tenant receiving the security deposit or pet damage deposit was because the tenant had given the wrong postal code in her email.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Under section 38(1) of the Act, the landlord within 15 days of the tenancy ending or the date the landlord receives the tenant's forwarding address in writing, whichever is the later must do one of the following: repay the security deposit or make an application for dispute resolution claiming against the deposit.

In the case the tenant sent her forwarding address by email on March 31, 2014. Under section 88 of the Act, email is not an approved method of service of documents. I find the tenant has not complied with the service provisions of the Act.

Even if I accept the landlord's evidence that they received the tenant's forwarding address on April 1, 2014, under Section 25 (5) of the Interpretation Act, the calculation of time, the first day must be excluded and the last day included. Therefore, the landlord had until April 16, 2014, to return to the tenant their security deposit and pet damage deposit by a method approved by section 88 of the Act.

In this case, the evidence supports that the landlord complied with section 38(1) of the Act, as the envelope was post marked April 16, 2014. I find the tenant has failed to prove that the landlord has breached the Act. Therefore, I dismiss the tenant's application without leave to reapply.

### Conclusion

The tenant's application is dismissed without 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: August 19, 2014

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Residential Tenancy Branch

