



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for the return of his security deposit.

The Tenant appeared for the hearing and provided affirmed testimony. There was no appearance for the Landlord during the 25 minute duration of the hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of the Notice of Hearing documents by the Tenant.

The Tenant testified that the Landlord was served with a copy of the Application and the Notice of Hearing documents on August 10, 2014 by registered mail. The Tenant provided a copy of the Canada Post tracking number as evidence for this method of service and testified that the Landlord had received and signed for the documents on August 15, 2014. In the absence of any evidence to dispute this, I find the Landlord was served with the required documents pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the “Act”).

### Issue(s) to be Decided

- Is the Tenant entitled to the return of his security deposit?

### Background and Evidence

The Tenant testified that the tenancy started on May 1, 2014 on a month to month basis. Rent was payable by the Tenant in the amount of \$1,500.00 on the first day of each month. The Tenant paid \$700.00 as a security deposit on April 26, 2014, which the Landlord still retains. The Tenant testified that he moved out of the rental suite on May 23, 2014 and then provided the Landlord with a forwarding address on a piece of paper. However, the Tenant did not provide any corroborating or supporting evidence of the written forwarding address or evidence that it had been indeed served to the Landlord.

The Tenant testified that the address on his Application was the same address he had provided to the Landlord at the end of his tenancy. However, when the Tenant was informed that I could put the Landlord on notice of the Tenant's forwarding address in this written decision and then give the Landlord the time limit set out under the Act to either make an Application to claim the Tenant's security deposit or return it to him, the Tenant explained that he was no longer resident at the address he had provided to the Landlord and on his Application. The Tenant provided a new forwarding address to me during the hearing.

### Analysis

Section 38(1) of the Act states that, within 15 days after the later of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must repay the security deposit or make an Application to claim against it. If the Landlord fails to do so, Section 38(6) of the Act provides for a doubling penalty which the Landlord must pay to the Tenant.

I find that the Tenant has failed to satisfy me with sufficient evidence the Landlord was served with the Tenant's forwarding address. I am not satisfied that the address provided by the Tenant was one where the Landlord could have used to serve documents because the Tenant explained that he was no longer resident in the address he had provided.

Under these circumstances, for the Tenant to make an Application for his security deposit he must satisfy that he had complied with Section 38(1) of the Act in giving the Landlord a correct forwarding address in writing. Therefore, there is no requirement on the Landlord to return the Tenant's security deposit until such time a forwarding address has been provided to the Landlord and the Tenant is able to provide sufficient evidence of this.

### Conclusion

For the reasons set out above, I dismiss the Tenant's application **with** leave to re-apply after the Tenant has provided the Landlord with his forwarding address in writing.

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: February 25, 2015

