



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This is an application brought by the tenant(s) requesting a monetary order in the amount of \$1000.00 and a request for recovery of their filing fee.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on February 10, 2016; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing, and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing, and I therefore conducted the hearing in the respondent's absence.

Both tenants were affirmed.

### Issue(s) to be Decided

The issue is whether or not the applicants have established monetary claim against the respondents, and if so in what amount.

### Background and Evidence

The applicants are requesting an order for return of double their security deposit stating that the landlord has refused to return the deposit.

The tenants further stated that they served the landlord a forwarding address in writing by e-mail, Facebook message, and by text.

## Analysis

Section 88 of the Residential Tenancy Act states:

**88 All documents**, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person **must be given or served in one of the following ways**: (my emphasis)

- (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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service prescribed in the regulations

In this case the tenants did not serve the forwarding address in any of the above ways, and instead sent it by e-mail, Facebook message, and text, however none of those methods are recognized methods of serving documents, and therefore, at this point, the landlords are not considered to have been served with a forwarding address in writing.

Since the landlords did not appear at today's hearing, I will dismiss this application with leave to reapply, and the tenants can serve the landlords with a forwarding address in writing by one of the above allowable methods.

Section 38 of the Residential Tenancy Act states:

**38** (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Therefore as stated above once the tenants serve the landlord with a forwarding address in writing, using one of the allowable methods, the landlord has 15 days to either return the deposit, or applied for dispute resolution to get an order to retain the deposit, and if the landlord fails to do so the tenants may then apply for dispute resolution for an order for return of double their deposit.

Section 39 of the Residential Tenancy Act states:

**39** Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

(a) the landlord may keep the security deposit or the pet damage deposit, or both, and

(b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

Therefore if the tenants wish to pursue the return of their security deposit they must serve the landlord with a forwarding address in writing within one year of the end of their tenancy.

Conclusion

This application is 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: June 06, 2016

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Residential Tenancy Branch