



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROCKWELL MANAGEMENT INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served by registered mail on December 12, 2015. Canada Post tracking numbers were provided by the tenant in documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the Residential Tenancy Act (the *Act*).

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the tenant entitled to recover the security deposit?

### Background and Evidence

The tenant testified that this tenancy started on October 01, 2014 for a fixed term tenancy of six months. At the end of the fixed term no further tenancy agreement was entered into and

the tenancy thereafter reverted to a month to month tenancy. Rent for this unit was \$1,600.00 per month due on the 1<sup>st</sup> day of each month in advance. The tenant testified that they paid a security deposit of \$800.00 on September 03, 2014;

The tenant testified that there were two tenants living in the rental unit and notice to end the tenancy was given to the landlord on August 23, 2015 with an effective date of September 30, 2015. The tenant testified that the landlord did complete a move in condition inspection with the tenant at the start of the tenancy; however, at the end of the tenancy the landlord did not arrange to do a move out condition inspection of the unit.

The tenant testified that they did not give the landlord written permission to keep all or part of the security deposit at the end of the tenancy. The tenant testified that the tenant sent a text message to the landlord asking about when she would receive the security deposit back and could it be wire transferred as this was the way it was paid. The landlord responded by text message and stated that it would have to be sent by cheque and asked the tenant to provide her forwarding address. The tenant testified that at that time she did not have a forwarding address but as she was friends with the new tenant who moved into the unit she provided that address as her forwarding address and asked the landlord to send the cheque there. The tenant testified that she did not receive a cheque from the landlord and on October 24 she sent another text message asking about the security deposit. The landlord responded by text message and informed the tenant that it had been sent on Friday.

The tenant testified that to date no cheque has been received by from the landlord and the tenant seeks to amend her application and recover double the security deposit.

#### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the tenant. In this matter the tenant has the burden of proof and must show that the tenant sent the landlord their forwarding address in writing. In this instance I find the tenant informed the landlord by text message that he could continue to use the dispute address as her forwarding address. I must therefore conclude that in accordance with s. 38(1)(b) of the *Act*

that the tenant has not provided a forwarding address in writing to the landlord as text messaging is not considered to be a method to provide service of a forwarding address.

At the hearing the tenant stated that the address on the application for Dispute Resolution is the present forwarding address; however, as the landlord has not attended the hearing to take note of this being the tenants current forwarding address, I find the tenant must provide her forwarding address in writing to the landlord. The landlord then has 15 days from that date to return the tenant's security deposit or file an application to keep it. It is important to note here that s. 36(2) of the Act states that the landlord extinguishes their right to file a claim against the security deposit for damages if the landlord has failed to complete a move out condition inspection report with the tenant at the end of the tenancy. If the landlord fails to take either of these actions, the tenant is at liberty to file a new application for Dispute Resolution after the 15 day deadline has passed.

### Conclusion

For the reasons set out above, I find the tenant's application to recover the security deposit is premature and is therefore 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: July 11, 2016

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Residential Tenancy Branch