



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            MNSD, FF

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for return of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord and "tenant KB" did not participate in the conference call hearing, which lasted approximately 15 minutes. Tenant VB (the "tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that he had authority to represent tenant KB as an agent at this hearing.

The tenant testified that on April 28, 2016 he forwarded the tenants' application for dispute resolution via registered mail to the landlord. Based on the testimony of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord has been deemed served with the application on May 3, 2016, the fifth day after its registered mailing.

### Issue(s) to be Decided

Are the tenants' entitled to a monetary order for return of the security deposit?

Are the tenants' entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

The tenant testified that this tenancy began on September 1, 2012 on fixed term until August 31, 2013 at which time it continued on a month to month basis. Rent in the amount of \$1,300.00 was payable on the first of each month. The tenants remitted \$600.00 for the security deposit at the start of the tenancy. The tenants vacated the rental unit on September 31, 2014.

The tenant testified that upon vacating the rental unit he provided the landlord with tenant KB's forwarding address both in writing and verbally. He provided tenant KB's address because he was leaving the country for six months and wanted to ensure the landlord had a Canadian address. While away, the tenant was told by tenant KB that she had not received the security

deposit back. The tenant testified that at the end of August 2015 he sent the landlord tenant KB's forwarding address in writing via regular mail. The tenant has not provided a copy of this letter. The tenant called the landlord but his calls went unanswered.

### Analysis

Section 38 of the *Act* establishes that a landlord has fifteen days from the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing to file an arbitration application claiming against the deposit, or return the deposit. In the absence of a landlord filing an application the tenant must prove a forwarding address in writing was provided to the landlord. Although the tenant testified that he provided a forwarding address first on September 31, 2014 and again sometime towards the end of August, he has not provided a copy of these two letters. Additionally the tenant has not provided a specific date in August in which he sent the forwarding address. In the absence of a letter and specific date the forwarding address was sent, I find the tenant has not met the burden of separate written notice. Accordingly, I dismiss the tenants' application with leave to reapply.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for the application.

### Conclusion

The tenants' application for a monetary order for return of the security deposit is dismissed with leave to reapply.

The tenants' application to recover the filing fee for this 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: July 04, 2016

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Residential Tenancy Branch