



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vandwell Homes  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, OLC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of all or part of the pet damage deposit or security deposit; for an order that the landlords comply with the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlords for the cost of the application.

The tenant attended the hearing and gave affirmed testimony. However the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlords attended the call. The tenant testified that the first named landlord was served with the Tenant's Application for Dispute Resolution and notice of this hearing by registered mail on June 21, 2016, and orally provided a tracking number assigned by Canada Post. The tenant was permitted to send to me by facsimile proof of such mailing after the hearing concluded, which I have now received. The tenant has provided a copy of a Canada Post cash register receipt bearing the date June 21, 2016 and a copy of the envelope returned to the tenant marked "Refused" with the tracking number that was orally given by the tenant during the hearing. I find that one of the named landlords has been served in accordance with the *Residential Tenancy Act*. The tenant did not serve the other 2 landlords, and therefore, I dismiss the tenant's application as against them.

### Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?
- Has the tenant established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically to properly deal with the security deposit?

### Background and Evidence

The tenant testified that this fixed-term tenancy began on September 1, 2015 and expired on March 31, 2016, but was extended by mutual agreement to April 30, 2016, at which time the tenancy ended. Rent in the amount of \$850.00 per month was payable in advance on the last day of each month, and there are no rental arrears.

The tenant further testified that prior to the commencement of the tenancy the landlord collected a security deposit from the tenant in the amount of \$425.00 which was required to secure the rental unit.

The landlord returned \$425.00 to the tenant by PayPal, but the tenant had closed that account and the \$425.00 was returned to the landlord. The tenant provided an email to the landlord requesting return of the security deposit and giving a forwarding address, but the landlord has not returned any portion of it, and refuses to communicate at all, and continues to ignore the tenant. The tenant has not been served with an application for dispute resolution by the landlord claiming against the deposit.

As well as providing a forwarding address in an email to the landlord, the tenant testified that the landlord has received a forwarding address on the Tenant's Application for Dispute Resolution.

### Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit within that 15 day period. If the landlord does neither, the landlord must repay the tenant double the amount of the deposit. The *Act* also states that if a tenant does not provide a landlord with a forwarding address in writing within 1 year from the date the tenancy ends, the landlord may keep the security deposit.

In this case, the tenant provided a forwarding address in an email, which is not necessarily sanctioned by the *Act*, especially when there is no supporting evidence that the landlord received it. The landlord did not respond to the tenant's email, and I am not satisfied that the tenant has established that the landlord received the forwarding address in writing or when.

Having found that the landlord was served with the Tenant's Application for Dispute Resolution which contains a forwarding address, I find that the landlord has now legally

received it, and the tenant has established a claim for the return of the security deposit in the amount of \$425.00.

The tenant did not lead any evidence to support the application for an order that the landlord comply with the *Act*, regulation or tenancy agreement, and I dismiss that portion of the application.

The tenant has also applied for monetary compensation for recovery of the filing fee for the cost of the application, however since the filing fee was waived by the Residential Tenancy Branch, there is no recovery, and that portion of the tenant's application is dismissed.

### Conclusion

For the reasons set out above, the tenant's application as against the second and third named landlords is hereby dismissed without leave to reapply.

The tenant's application for an order that the landlords comply with the *Act*, regulation or tenancy agreement is hereby dismissed without leave to reapply.

The tenant's application for a monetary order for recovery of the filing fee for the cost of this application is hereby dismissed without leave to reapply.

I hereby grant a monetary order in favour of the tenant as against the first named landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$425.00. This order is final and binding and may be enforced.

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 30, 2016

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Residential Tenancy Branch