



# 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 in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for the return of the security deposit.

The Tenant stated that on May 16, 2016 the Application for Dispute Resolution and the Notice of Hearing were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant cited a tracking number that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing.

On May 16, 2016 the Tenant submitted 3 pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was mailed to the Landlord on June 08, 2016. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

### **Issue(s) to be Decided:**

Is the Tenant entitled to the return of security deposit?

### **Background and Evidence:**

The Tenant stated that:

- she and the Landlord agreed that she would move into the rental unit on March 30, 2016;
- she agreed that she would pay monthly rent of \$650.00 by the last day of each month;
- on March 10, 2016 she paid a security deposit of \$330.00;
- on March 12, 2016 she told the Landlord, via text message, that she did not wish to move into the rental unit;
- she did not move into the rental unit;

- she left the Landlord a phone message in which she provided the Landlord with her forwarding address;
- she did not provide the Landlord with her forwarding address by text message or in any other written format;
- in one of the text messages she sent to the Landlord she told the Landlord she hopes to get half of her “down payment” back;
- the Landlord did not return any portion of the security deposit; and
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

The Tenant submitted a series of text messages she exchanged with the Landlord in March of 2016. In a text message sent on March 23, 2016 she informed the Landlord she is “giving up the suite”.

Analysis:

On the basis of the undisputed evidence I find that:

- the Landlord and the Tenant entered into a verbal agreement for a tenancy that was to begin on March 30, 2016;
- the Tenant abandoned that tenancy prior to March 30, 2016 when she informed the Landlord, via text message, that she was “giving up the suite”;
- the Tenant paid a security deposit of \$330.00; and
- the Tenant did not provide the Landlord with her forwarding address in writing prior to filing this Application for Dispute Resolution.

Section 38(1) of the *Act* stipulates 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 either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

I find that the Tenant filed her Application for Dispute Resolution prematurely, as she had not provided a forwarding address, in writing, by the time she filed the Application.

A forwarding address only provided by the tenant on the Application for Dispute Resolution does not meet the requirement of a separate written notice and does not serve to provide the landlord with a forwarding address for the purposes of section 38 of the *Act*. Landlords who have not received the forwarding address prior to receiving the Application for Dispute Resolution may believe that because the matter is already scheduled for a hearing, it is too late to file a claim against the security deposit.

As the Application for Dispute Resolution has been filed prematurely, I dismiss the Application with leave to reapply. The Tenant retains the right to file another Application for Dispute Application seeking the return of the security deposit if the deposit is not returned within fifteen days after the Landlord receives the Tenant's forwarding address in writing.

Conclusion:

The Application for Dispute resolution 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: November 08, 2016

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Residential Tenancy Branch