



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LANTERN PROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNSD FF

### **Introduction**

Only the tenant attended and gave sworn testimony. He said that he had served the landlord with the Application for Dispute Resolution by registered mail and by text with his forwarding address. He said tracking information from the Postal Service showed receipt by the landlord. He said the landlord acknowledged by text that they received the forwarding address. However no documents were provided to support what the tenant said regarding service. As discussed with the tenant in the hearing, text messaging is not a valid method of service pursuant to sections 88 and 89 of the Act and there is insufficient evidence that the landlord even received the text message. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order to return the security deposit pursuant to Section 38.

### **Analysis and Conclusion:**

The Residential Tenancy Act provides:

Return of security deposit and pet damage deposit

*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.*

*(4) A landlord may retain an amount from a security deposit or a pet damage deposit if,*

*(a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or*

*(b) after the end of the tenancy, the director orders that the landlord may retain the amount.*

*(6) If a landlord does not comply with subsection (1), the landlord  
(a) may not make a claim against the security deposit or any pet damage deposit, and  
(b) must pay the tenant double the amount of the security deposit, pet damage deposit,  
or both, as applicable.*

In most situations, section 38(1) of the Act requires a landlord, within 15 days of the later of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address in writing, to either return the deposit or file an application to retain the deposit. If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the security deposit (section 38(6)).

As discussed with the tenant in the hearing, there is insufficient evidence that he served his forwarding address in writing as required by section 38 of the Act (quoted above). I dismiss his Application with leave to reapply after legal service.

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: May 30, 2017

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Residential Tenancy Branch