



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNSD, MNDC, OLC, FF

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein the Tenant sought an Order that the Landlord comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, or the tenancy agreement by providing monetary compensation in the form of return of double the security deposit paid, as well as recover of the filing fee.

The hearing was conducted by teleconference on February 19, 2018. The Tenant's mother, C.V. called in on her behalf. The Tenant did not call into the hearing. The Landlord was represented by his office manager, D.W.

Both representatives were given a full opportunity to be heard, to present their affirmed testimony, to present their evidence orally and in written and documentary form, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Tenant entitled to return of double the security deposit paid?
2. Should the Tenant recover the filing fee?

### Background and Evidence

The Tenant's mother, C.V., testified on her behalf. She confirmed that there was a fire at the rental unit on July 6, 2017.

In the Tenant's written submissions, she wrote as follows:

A fire occurred on July 6th 2017 in the [name of building] apartments in [city]e where I lived. The fire was substantial and the building became inhabitable. We were finally given access to remove our belongings on July 15th, we had a very small window to move out and the key to the deadbolt (that was put on the unit after the fire) was returned to [I.] - (the landlady) also on the 15th. At that

time we tried to give Iris the forwarding address but were told it was not needed. ( Canada post is holding or forwarding mail free of charge for one year for all fire victims from [name of building], making the former address still a valid forwarding address) We also have provided the forwarding address to the Emergency social services and the Salvation Army. We would have happily provided a proper forwarding address to the landlady or owner but we couldn't force them to take one.

Whether the tenancy ended July 6th (fire date) or July 15th, (key returned / stuff removed )is moot because either way 15 days have passed. The only info we have received is via the Salvation Army, which we have found quite frustrating as there is no reason for a business owner to be using religious volunteers to be a go-between between himself and former tenants.

We were not even provided with the owners name or business name until last week when we pushed the Salvation Army for it after being told on July 27th by the Salvation Army "The damage deposits will be delayed by about two weeks to give the owner time to calculate interest owing" This info was given via Facebook. We are filing a dispute as calculating interest is something that could have been done in the 15 day window the tenancy act requires.

Even if you count July 15th (move out) vs the 6th (fire) we are at over a month since the fire and feel we are owed our money ASAP. We have put in a request for \$850 which is double the security deposit paid - based on information on this site stating that is the penalty for being late.

C.V. stated that the Tenants met with I. on July 27, 2017 at which time their rent was returned.

C.V. claimed that during a meeting with the Landlord's representatives on July 27, 2017 the Tenant (as well as all other affected tenants) provided their forwarding addresses in writing to the Landlord for the purposes of return of their security deposit. C.V. confirmed that she was not at the meeting and was relying on the information provided to her by her daughter.

D.W. testified on behalf of the Landlord. She stated that the Landlord has no record of receipt of the Tenant's written forwarding address. She also confirmed she was not present for the July 27, 2017 meeting. D.W. testified that the first time she received the tenant's forwarding address was when they received the Tenant's Application for Dispute resolution. She noted that the security deposit was returned to the Tenant by way of a cheque and was provided to the Tenant within days of receiving her application and address.

The Tenant's agent confirmed the Tenant received her security deposit by the end of August 2017.

### Analysis

As noted during the hearing, the Tenant bears the burden of proving her claim on a balance of probabilities.

Section 38 of the Act provides that a Landlord has 15 days from the date of the end of the tenancy or receipt of the Tenant's forwarding address in writing, whichever is later. The Tenant's agent submits that the Tenant provided her forwarding address to the Landlord on July 27, 2017. The Landlord's representative denies receipt of same and submits that the first time she received the Tenant's address was when she received the hearing package.

The details of dispute section was reproduced earlier in this my Decision. In that document the Tenant writes that as her mail was being forwarded, that should suffice in terms of the requirement to provide a forwarding address. The Tenant also writes that she “tried to give a forwarding address” to I., but was told one wasn’t needed. This is incongruous with the submissions made by her agent, who claimed the forwarding address was in fact provided in writing on July 27, 2017 to I.

Reconciling conflicting testimony is difficult at times; however, when the parties provide two versions of events, and neither party can submit any documents to support their version, the party who bears the burden of proving their claim fails. In this case, I am unable to find, based on the evidence before me, that the Tenant provided her forwarding address in writing to the Landlord prior to filing her application for dispute resolution.

The Tenant’s Application was filed on August 21, 2017. The parties agreed that the Landlord returned the security deposit to the Tenant by the end of August 2017.

Based on the foregoing, I am unable to find that the Landlord violated section 38 of the *Act*. I therefore dismiss the Tenant’s claim for double the security deposit paid.

#### Conclusion

The Tenant’s Application is dismissed.

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: February 23, 2018

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Residential Tenancy Branch