



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNSD, FF

### Introduction

On May 18, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") requesting the return of their security deposit, and the return of his filing fee. The matter was set for a conference call.

The Tenant attended the conference call hearing and was affirmed to be truthful in his testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy *Act* states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified the Application for Dispute Resolution and Notice of Hearing had been served on the Landlord, by Canada Post Registered mail, a Canada post tracking number was provided as evidence of service. I find that the Landlord had been duly served in accordance with sections 89 and 90 of the *Act*.

The Tenant was provided with the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Tenant entitled to the return of his security deposit, pursuant to section 38 of the *Act*?
- Is the Tenant entitled to the return of his filing fee?

Preliminary Matter

At the outset of the hearing, the Tenant testified that he had only provided the Landlord with his forwarding address when he served the Landlord with the Notice of Hearing documents for this hearing.

Section 38 of the Act states:

**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,

As the Tenant had not provided their forwarding address in writing to the Landlord prior to the submission of their application, I find that their application for this hearing is premature. Only after both of the requirements outlined above have been met, and the 15 days has passed, may the Tenant make an application with this office to request the return of the security deposit.

In this case, I find that the Tenant did not provide the Landlord with his forwarding address in accordance with section 38 of the *Act*, nor did he wait the required 15 days before making his application for this hearing. Therefore, I am dismissing the Tenant's application with leave to reapply.

Conclusion

I dismiss the Tenant application 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: July 11, 2018

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Residential Tenancy Branch