



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38, including double the amount;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

### Issues

Is the tenant entitled to a return of all or a portion of the security deposit, including double the amount?

### Background and Evidence

The tenancy was to begin on May 1, 2017 but the tenant did not end up moving into the rental unit. A tenancy agreement was not entered but the tenant completed an intent to rent form and paid a security deposit of \$300.00 which the landlord continues to hold.

The tenant is claiming double the security deposit arguing that the landlord failed to return the security deposit within 15 days of the date the landlord received the tenants forwarding address in writing. The tenant submitted a copy of a letter dated May 30, 2017 as proof of providing a forwarding address.

The landlord argues she was never provided a forwarding address by the tenant and the first she heard of the issue was the tenant's application for dispute resolution.

The tenants submit the letter was sent by regular mail to the same address as her application which the landlord acknowledged receiving. The application was sent by registered mail but the letter was sent by regular mail.

### Analysis

Section 38 of the Act provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has, at the end of the tenancy, consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. A landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit, pet deposit, or both, as applicable.

The onus is on the tenant to provide proof of service. The landlord testified that the forwarding address was not received. I find the tenant provided insufficient evidence that a forwarding address was provided in writing to the landlord.

I dismiss the tenant's claim for return of the security deposit with leave to reapply. The tenant must first provide a forwarding address in writing to the landlord. The landlord would then have 15 days to either return the deposit or file an application to make a claim against the deposit.

### Conclusion

The tenant's application 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: September 13, 2018

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Residential Tenancy Branch