



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held, by teleconference, on December 14, 2018. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit

Both Tenants attended the hearing. However, the Landlord did not. The Tenants stated that they served the Notice of Hearing and her application package to the Landlord by registered mail on August 24, 2018. Pursuant to section 90 of the Act, I find the Landlord received this package 5 days after it was mailed, on August 29, 2018.

The Tenants were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

### Issue(s) to be Decided

1. Are the Tenants entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

### Background and Evidence

The Tenants stated that the tenancy ended on July 31, 2018, which was the day they vacated the rental unit. They stated that the Landlord still holds their security deposit in the amount of \$1,300.00.

The Tenants stated that they left their forwarding address on a piece of paper on the counter in the rental house. The Tenants also stated that they text messaged their forwarding address to the Landlord. The Tenants stated that the Landlord did not directly acknowledge getting their forwarding address in writing. The Tenants stated that the Landlord is trying to avoid them, and has failed to fulfill his duties as a Landlord. The Tenants feel they are being taken advantage of. The Tenants provided a copy of some text messages they have had with the Landlord where they have discussed various issues pertaining to the tenancy.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, I find the Tenants have not provided their forwarding address in writing to the Landlord. I am not satisfied that leaving the forwarding address on the counter is sufficient, such that I could find the Landlord received it. Further, although the Tenants have texted with the Landlord before, I note that there is insufficient evidence that the Landlord received that particular text message with respect to the forwarding address in writing. There does not appear to sufficient evidence to show the Landlord received that particular text message, as he does not directly address the receipt of it in any of the subsequent text messages. Ultimately, I am not satisfied the Tenants have properly served the Landlord with their forwarding address in writing, based on the two methods of service they discussed (leaving a letter on a countertop in the rental unit, and sending a text).

Since the forwarding address was not properly provided from the Tenants to the Landlord, in writing, I dismiss the Tenants' application on this matter, with leave to

reapply. I strongly encourage the Tenants to utilize registered mail to serve the Landlord with their forwarding address in writing, and if the Landlord fails to return the deposit, then the Tenants can reapply, and provide registered mail tracking information to show they served the Landlord with their forwarding address in writing.

Since the Tenants were not successful with their application, I decline to award them the cost of the filing fee they incurred to file this application.

### Conclusion

The Tenants' application has been 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: December 17, 2018

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Residential Tenancy Branch