



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 9005 Skier's Rest Lane Wedgewoods  
Ltd. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD MNDC FF

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on March 7, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit; and,
- A monetary order for compensation for loss or other money owed.

The Landlord and the Tenant both attended the hearing. The Tenant was represented at the hearing by his counsel, M.W, collectively referred to as the Tenant. Both parties confirmed receipt of each other's documentary evidence. The Landlord confirmed receipt of the Tenant's application package.

Both parties 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.

### Preliminary and Procedural Matters

The hearing lasted over 60 minutes due to unclear testimony and evidence from both parties. A significant portion of the hearing was used up trying to understand how the Tenant arrived at his total for his monetary claim, in the absence of a monetary worksheet. At the end of the hearing, I indicated an adjournment would be required so

that we could have more time to hear the issues, and to allow me to ask some questions. However, upon further review of the evidence and testimony, I find an adjournment is not required, as I have enough before me to make a decision. My decision is outlined below.

#### Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?
2. Is the Tenant entitled to compensation for loss or money owed?

#### Background, Evidence, and Analysis

There are two parts to the Tenant's application:

1. the return of the security deposit
2. monetary compensation for damage or loss under the Act.

With respect to the first item, I heard testimony and reviewed the documentation with respect to the security deposit. The Landlord was unclear about whether or not he received the Tenant's forwarding address in writing for the purposes of the return of the security deposit. He could not clearly answer if he ever got it. Further, the Tenant was unable to provide clear evidence and testimony with respect to when and how he provided his forwarding address in writing to the Landlord.

After several minutes, the Tenant stated that the only proof he had available that he served the Landlord with his forwarding address was by way of a letter from his counsel to the Landlord on July 20, 2018. Counsel for the Tenant stated that he sent the Landlord a letter on July 20, 2018, outlining his demands for compensation and at the top of this letter, in his company letterhead, is the forwarding address of his law office. Counsel for the Tenant stated that this is the Tenant's forwarding address but this fact was not made clear to the Landlord.

Having reviewed this matter, I note the onus is on the Tenant to support his application, and I find there is insufficient evidence that the Tenant has served the Landlord with his forwarding address in writing, and accompanied this with a clear request to have the security deposit returned to him. I do not find the letter sent to the Landlord on July 20,

2018, is sufficient. It does not clearly state the address in the letterhead is the Tenant's forwarding address.

During the hearing, I explicitly confirmed that the forwarding address for the Tenant is his lawyer's office (as listed on the letterhead from July 20, 2018). The Landlord confirmed in the hearing that he now has this forwarding address. I find the Landlord is served with the forwarding address of the Tenant, as of the date of this decision.

The Landlord must deal with the deposit pursuant to section 38 of the *Act*. The Tenant's application for return of the security deposit is premature, and is dismissed with leave to reapply. The Tenant may re-apply if the Landlord does not claim against or return the deposit in full within 15 days of the date of this decision.

With respect to the Tenant's second item on his application, I note that approximately 20 minutes was used during the one hour hearing to try and figure out how the Tenant arrived at the amount listed on his application. The Tenant began by stating that he is looking for \$26,000.00 for 4 items as follows:

1. \$12,000.00 – penalty as per section 38(6) of the Act for double the security deposit
2. \$4000.00 – the Tenant wants the signing fee he paid at the start of the tenancy returned
3. \$6000.00 – the Tenant wants the remaining security deposit returned
4. \$4000.00 – the Tenant wants the signing fee he paid to be treated as a security deposit, and doubled, pursuant to section 38(6) of the Act.

Then, the Tenant referred to his application which lists a total of \$20,000.00, comprised of the signing fee and the security deposit. In this application the Tenant indicates a portion of the deposit was returned.

Then, during the hearing, the Tenant stated that he has not received and money back from the Landlord for this deposit, which is not internally consistent with what was listed on his application. During the hearing, the Tenant also pointed to his letter (which his lawyer sent to the Landlord on July 20, 2018) as evidence showing what amounts he is owed. This letter provides yet another version of what is claimed/owed. The Tenant's counsel has cited *several* different totals. Some of these totals include fines, and penalties. The Tenant cited the aggregate of these amount are \$22,000.00, plus \$15,000.00 in fines.

During the hearing, I asked for clarity on these items from the Tenant and I asked why he submitted a signed and *blank* monetary worksheet. The confusion surrounding the totals could have been resolved quite easily, had he laid these out in the worksheet.

I turn to the following rules of procedure:

*2.5 Documents that must be submitted with an Application for Dispute Resolution*

*To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:*

- ***a detailed calculation of any monetary claim being made;***
- *a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and*
- *copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].*

*When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.*

I note the Tenant's claim is for a substantial amount of money, and many different items. The Tenant has also indicated several different subtotals. I find it is prejudicial to the respondent (Landlord) to not have a clearly laid out monetary order worksheet. It also makes it difficult for me to understand the nature and basis of the application. Since the Tenant did not complete the necessary documents and has failed to fill out the monetary order worksheet in a clear and concise way, I dismiss his claim with leave to reapply. However, this is not an extension of any statutory deadlines under the Act.

Conclusion

The Tenant's application is dismissed, in full, 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: March 8, 2019

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Residential Tenancy Branch