



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

This decision is in respect of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act"), made on October 28, 2018. The tenant sought the return of her security deposit, pursuant to section 38(1) of the Act, and compensation for the filing fee, pursuant to section 72 of the Act.

A dispute resolution hearing was convened on March 26, 2019 and the landlord, the tenant, and a witness for the tenant attended. The parties were given a full opportunity to speak, to present evidence, to make submissions and call witnesses. The parties did not raise any issues regarding the service of documentary evidence.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure* and to which I was referred, only evidence relevant to the preliminary issue of this application is considered in my decision.

### Preliminary Issue: Forwarding Address

The tenant's claim is for double the return of the security deposit. The "doubling provision," as it is often called, is contained within section 38(6) of the Act.

Section 38(1) of the Act requires that within 15 days after the later of the date the tenancy ends, or the date the landlord receives the tenant's forwarding address in writing, the landlord must do one of the following: (1) repay any security deposit or pet damage deposit to the tenant, or (2) apply for dispute resolution claiming against the security deposit or pet damage deposit. Section 38(4) of the Act permits a landlord to

retain an amount from a security deposit or a pet damage deposit if, at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant.

Section 38(6) of the Act states that where a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit.

The tenant's claim hinges on if, and when, the landlord received the tenant's forwarding address. Here, the tenant testified that she gave the landlord her forwarding address in (a) a notice to end tenancy, and (b) on a piece of paper along with the keys. She was unable to provide any documentary evidence in this regard. The landlord disputed that she ever received the tenant's forwarding address.

When two parties to a dispute provide equally reasonable accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In this case, I find that the tenant has not established that the landlord did, in fact, receive the forwarding address.

As such, I must apply *Residential Tenancy Branch Practice Directive 2015-01*, "Forwarding Address for the Return of a Tenant's Security Deposit," wherein the landlord is deemed to have received the tenant's forwarding address upon receipt of this decision which includes the tenant's forwarding address.

The tenant's forwarding address is included on the cover page of this Decision. The landlord must, therefore, within 15 days of receiving this Decision, either (1) return the security deposit in full to the tenant, or (2) file an application for dispute resolution seeking to retain any or all of the security deposit.

The tenant's application is dismissed with leave to reapply. The tenant may reapply for dispute resolution should the landlord not pursue one of the two above-noted options.

As an aside, I recommend the parties to review sections 24, 36, and 38 of the [Act](#), which pertain to move-in and move-out inspections, and security deposits. I also recommend that the tenant review [Residential Tenancy Policy Guideline 1. Landlord & Tenant – Responsibility for Residential Premises](#), specifically page 2 regarding carpets. As neither the tenant nor the landlord appeared to comply with the Act, I would encourage the parties to settle their dispute upon receiving the Decision.

Conclusion

The tenant's application is dismissed with leave to reapply.

The landlord is deemed to have received the tenant's forwarding address upon receipt of this Decision and must exercise section 38(1) of the Act within 15 days of receiving this Decision.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: March 26, 2019

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Residential Tenancy Branch