



# 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 applicant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38.

Only the applicant appeared at the hearing. The applicant provided affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The applicant testified and supplied documentary evidence that she served the respondent with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on January 24, 2019. The applicant had provided tracking information from Canada Post indicating the mail had been returned unclaimed to the applicant on February 19, 2019. I find the respondent has been served in accordance with section 89 of the Act. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue to be Decided

Is the applicant entitled to a monetary order equal to the value of her pet deposit as a result of the respondent's failure to comply with the provisions of section 38 of the *Act*?

### Background, Evidence

The applicants' undisputed testimony is as follows. The six month fixed term tenancy began on July 15, 2018 but ended early on December 31, 2018. The applicant was obligated to pay \$900.00 per month in rent in advance and at the outset of the tenancy the applicant paid a \$450.00 security deposit and an \$825.00 pet deposit. The applicant testified that she lived in the same 2 bedroom unit with the respondent as her roommate. The applicant testified that she had

a written tenancy agreement with the respondent but not with the actual owner of the unit. The applicant testified that she was never provided information about the owner. The applicant testified that she gave her forwarding address to the respondent by registered mail on December 28, 2018. The applicant testified that she has received her security deposit back from the respondent but was advised by the respondent that she would not be getting her pet deposit back. The applicant seeks the return of her pet deposit.

### Analysis

Policy Guideline 19 addresses the issue before me as follows:

Disputes between tenants and landlords regarding the issue of subletting may arise when the tenant has allowed a roommate to live with them in the rental unit. The tenant, who has a tenancy agreement with the landlord, remains in the rental unit, and rents out a room or space within the rental unit to a third party. However, unless the tenant is acting as agent on behalf of the landlord, if the tenant remains in the rental unit, the definition of landlord in the Act does not support a landlord/tenant relationship between the tenant and the third party. The third party would be considered an occupant/roommate, with no rights or responsibilities under the *Residential Tenancy Act*. Based on the above I find that this is not a dispute between landlord and tenant but rather a dispute between roommates, accordingly; I do not have the jurisdiction to hear the matter.

### Conclusion

I HEREBY DECLINED TO HEAR this matter, for want of jurisdiction and the application is dismissed, without 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: April 15, 2019

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Residential Tenancy Branch