



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW DECISION**

Dispute Codes      MND, FF

### Introduction

This review hearing was scheduled in response to the Landlord's successful review of the original Decision dated March 26, 2019 on the basis of new evidence as set out in the Review Consideration Decision, dated April 8, 2015. The original Decision and Order was suspended pending the outcome of this review hearing.

The Tenant did not attend the hearing. The Landlord served the Tenant with the Notice of Review Hearing and cheque evidence on April 10, 2019 by registered mail. This service date complies with the order for service contained in the Review Consideration Decision. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Did the Landlord return the security deposit to the Tenant within the time limit allowed under the Act?

### Background and Evidence

The following are undisputed facts: At the outset of the tenancy the Landlord collected \$425.00 as a security deposit. The Tenants moved out of the unit on October 28, 2018. The Landlord received the Tenants' forwarding address on November 2, 2018 by text and on November 15, 2018 by letter placed in the Landlord's mailbox. The full security deposit was returned to the Tenants by cheque dated November 15, 2018 and was cashed by the Tenant on November 28, 2018.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Based on the undisputed evidence that the Landlord received the Tenant's forwarding address in writing on November 15, 2018 and the Landlord's undisputed evidence that the Tenant cashed the Landlord's cheque for the security deposit of \$425.00 on November 28, 2019, I find that the Landlord returned the full security deposit to the Tenant within the time allowed under the Act.

Section 82(3) of the Act provides that following the review, the director may confirm, vary or set aside the original decision or order. As the issue of the date of the return of the security deposit has been resolved with the consideration of the new evidence, it is not necessary to consider whether the matter of the security deposit was part of the original application. The original Decision is varied to substitute the finding of the late return of the security deposit with the finding that the security deposit was returned within the time allowed. The original Order is set aside.

### Conclusion

The original Decision is varied and the original Order is set aside. This review 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: May 27, 2019

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Residential Tenancy Branch