



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

On February 7, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a Monetary Order for a return of her security deposit pursuant to Section 38 of the *Residential Tenancy Act* (the “*Act*”).

The Tenant attended the hearing; however, the Landlord did not attend the hearing. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing package to the Landlord by placing it in the Landlord’s mailbox on or around February 12, 2019. Based on this testimony, I am not satisfied that the Tenant has duly served the Landlord with the Notice of Hearing package in accordance with Section 89 of the *Act*. As such, I dismiss the Tenant’s Application for a return of the security deposit with leave to reapply.

As a note, Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receives the Tenant’s forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*. If the Tenant wants the security deposit returned, she must provide a forwarding address in writing to the Landlord first.

If the Landlord does not deal with the security deposit pursuant to Section 38 of the *Act* within 15 days of being deemed to have received the forwarding address in writing, the Tenant can apply for double the deposit, pursuant to the *Act*.

Conclusion

Based on my findings above, I dismiss the Tenant's Application 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: May 30, 2019

Residential Tenancy Branch