



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT, MNSD, FFT

### Introduction

This hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for a return of the balance of his security deposit, doubled, and for recovery of the filing fee paid for this application.

The tenant and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, no issues were raised regarding service of the application or the other's evidence.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all relevant evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Preliminary and Procedural Matters

I note that the tenant submitted a substantial amount of evidence which had been saved to a USB device. The parties were informed that despite this amount of evidence, most of it was not relevant to the issue in this case and therefore would not be discussed at the hearing.

Issue(s) to be Decided

Is the tenant entitled to a monetary order comprised of the balance of his security deposit, doubled, and to recover his filing fee?

Background and Evidence

The undisputed evidence was that this tenancy began on July 1, 2015, ended on April 30, 2017, when the tenant vacated the rental unit, and that the tenant paid a security deposit of \$475.00 on or about June 9, 2015.

The tenant submitted that he provided his forwarding address to the landlord on April 30, 2017, via an email and text message communication.

The landlord withheld a portion of the tenant's security deposit and returned the amount of \$175.00, even though the tenant had not authorized the landlord to do so.

The tenant filed his application for dispute resolution on April 29, 2019.

Analysis

Based on the documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Under section 38(1) of the Act, a landlord is required to either repay a tenant's security deposit or to file an application for dispute resolution to retain the deposit within 15 days of the later of receiving the tenant's forwarding address in writing or at the end of a tenancy. Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of her security deposit.

Section 88 of the Act provides that documents, the written forwarding address in this case, that are required to be served on another party, the landlord in this case, **must** be given or served in the ways listed in this section of the Act. Email and text message communication is not an approved method of delivery of those documents under the Act. (emphasis added)

I find that the tenant's application is premature, due to the fact that the tenant confirmed he has not provided his written forwarding address in writing to the landlord in a way required by section 88 of the Act.

The tenant should have served his forwarding address in writing to the landlord in accordance with the Act and allow the landlord the applicable timeline under section 38 of the Act, which is fifteen days, to either return his security deposit in full or file an application claiming towards the security deposit.

I therefore dismiss the tenant's application. As the tenant filed his application on the last day allowed within the 2 year limitation period following the end of a tenancy, I dismiss the tenant's application without leave to reapply.

As the tenant's application was premature, I do not grant the tenant the recovery of the filing fee.

### Conclusion

The tenant's application is premature and is therefore dismissed, without leave to reapply, as the 2 year limitation period has passed.

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: July 15, 2019

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Residential Tenancy Branch