



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDS, MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for money owed and for the return of the security deposit.

Both parties appeared.

### Preliminary and Procedural matter

The landlord confirmed they received the tenant's evidence. The landlord stated that they attempted to serve the tenant at the service address in the application; however, when they attempted to serve the tenant they were told by the building manager that the tenant does not live there. Filed in evidence is a handwritten note from the building manager confirming the landlord's testimony.

The tenant argued that they had moved from the residence and did not amend their application to provide a new service address. The tenant stated it should not matter as the landlord cannot have any evidence related to their application.

In this case, the landlord was unable to serve the tenant with their evidence. I find the tenant's response unreasonable and not in compliance with the requirements that they must provide an address for service. All parties have the right to be able to submit evidence, whether the other party feels that it is not relevant, such as in this case. Only the Arbitrator has the right to make that decision. Therefore, I permit the landlord's evidence to be considered at the hearing.

### Issues to be Decided

Is the tenant entitled to a monetary order for money owed?  
Is the tenant entitled to the return of the security deposit?

### Background and Evidence

The tenancy began on March 1, 2019 and was to expire on February 2020. Rent in the amount of \$1,100.00 was payable on the first of each month. A security deposit of \$550.00 and a pet damage deposit of \$200.00 was paid by the tenant. The tenancy ended May 30, 2019.

The tenant stated that they should be entitled to recover money for their time preparing for the hearing.

The tenant testified that they gave the landlord their forwarding address to the landlord on a piece of paper at the move-out inspection.

The landlord testified that the tenant refused to provide a forwarding address at the move-out inspection and it was noted on the move-out condition inspection report. Filed in evidence is a copy of the report.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenant has the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case the tenant seeks to recover the time they spent filing and preparing for the hearing. I find the tenant is not entitled to cost relating to making their application as each party is responsible for their own costs. The only fee recoverable is the filing fee,

if the applicant is successful with their application. Therefore, I dismiss this portion of the tenant's claim.

The evidence of the tenant was they gave the landlord their forwarding address on a piece of paper at the move-out inspection. The evidence of the landlord was the tenant refused to give a forwarding address.

I accept the landlord's version over the tenant's as the only address the tenant gave the landlord on the move-out condition inspection report was their email address. The report further shows the tenant refused to provide a forwarding address. Therefore, I find the tenant has not met the burden of proof to prove the landlord received their forwarding address.

However, the tenant confirmed at the hearing their new address for service, which I have noted on the covering page of this decision. This is not the address that was submitted in their application.

Therefore, the landlord was informed at the hearing that they are now considered to have received the tenant's forwarding address on October 8, 2019 and have 15 days to comply with the provisions of section 38 of the Act.

### Conclusion

The tenant's application for a monetary order is dismissed. The tenant's application for the security deposit is dismissed with leave to reapply. Should the landlord not comply with the provisions of section 38 of the Act.

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: October 09, 2019

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Residential Tenancy Branch