



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFT MNSD

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of the security deposit or pet damage deposit and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The parties were also given the opportunity to question each other.

During the course of the hearing the landlord testified that the Hearing Package served to the landlord did not contain any of the tenant's evidentiary material. The tenant testified that English is not her first language and all of the evidence was served to the landlord.

The tenant testified that the landlord with the Hearing Package by registered mail, but has provided no evidence of that. I accept that English is not the tenant's first language, however the tenant was not able to recall what exactly was in the envelope with the Tenant's Application for Dispute Resolution and notice of this hearing. The landlord explicitly testified what was in the hearing package received. Therefore, I cannot be satisfied that the landlord has received the tenant's evidentiary material, and I decline to consider it.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?

### Background and Evidence

**The tenant** testified that this fixed term tenancy began on January 1, 2019 and expired on June 30, 2019 at which time the tenancy ended. Rent in the amount of \$1,650.00 per month was payable on the last day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$825.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The tenant further testified that she sent a letter to the landlord by registered mail on July 15, 2019 which contained the tenant's forwarding address. The landlord has not returned any portion of the security deposit to the tenant.

**The landlord** testified that she has not received any registered letter from the tenant that contained the tenant's forwarding address. The landlord only received 1 registered letter which contained a 2-page notice of dispute, 2 pages of the Application and instructions; a 6-page fact sheet and 2 pages of Respondent Instructions. None of the tenant's evidence was included in the package. The Application of the tenant contains an address of the tenant.

The landlord has filed evidentiary material, which was served to the tenant about 2 weeks ago.

The landlord has not filed a claim against the security deposit. An application was started but due to an accident, the landlord is currently in hospital.

### Analysis

The *Residential Tenancy Act* specifies that a landlord must deal with the security deposit by returning it to a tenant or by making an Application for Dispute Resolution claiming against the security deposit within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. Having found that I cannot consider the tenant's evidentiary material, I cannot be satisfied of when or how the landlord received the tenant's forwarding address. However the landlord agrees that the tenant's forwarding address is contained in the Tenant's Application for Dispute Resolution which the landlord has received.

The legislation is intended to ensure that a forwarding address is given in writing prior to making an Application for Dispute Resolution. If a tenant only provides it in the

Application for Dispute Resolution, the forwarding address, for the purposes of Section 38 of the *Act*, is deemed to have been received by the landlord on the day of the hearing, which is today, and I so find.

Conclusion

For the reasons set out above, I hereby deem today, November 26, 2019 as the date the landlord received the tenant's forwarding address in writing.

The tenant's application is hereby dismissed 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: November 26, 2019

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Residential Tenancy Branch