



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package, which the landlord confirmed receiving on October 2, 2019 by mail. The landlord claims that she submitted a documentary evidence package via Service BC on January 11, 2019 after paying a \$100.00 Fee. The landlord confirmed that this was for filing evidence and that she did not file an application for dispute. The landlord does not have a record of the filing fee available. The tenant confirmed receipt of the documentary evidence which included a copy of a Landlord's Application for Dispute and it did not appear to have a file number attached. The landlord clarified that the copy of this document was provided to the tenant just for reference. A review of the Dispute Resolution Administrative Database showed no evidence submissions on behalf of the landlord. All of the documentary evidence submissions were accounted for as being submitted by the tenant. A review of the database and audit notes shows no documentary evidence submission by the landlord.

I accept the undisputed affirmed evidence of both parties that the tenant served the landlord with the notice of hearing package and the submitted documentary evidence. On the landlord's documentary evidence submission, I find that as there are no records of such submitted other than the tenant confirming receipt of which, the hearing shall proceed in absence of these documents. Both parties were notified that the landlord

may make reference to these documents during the hearing if required. The landlord did not refer to any specific documents during the hearing.

At the end of the hearing the tenant stated that as she is still of no fixed address that she will accept a copy of this decision to her filed email address.

### Issue(s) to be Decided

Is the tenant entitled to return of the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on August 1, 2019 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated July 26, 2019. The monthly rent was \$600.00 and a security deposit of \$300.00 was paid on July 26, 2019.

The tenant seeks return of the \$300.00 security deposit paid to the landlord. The tenant stated that the tenancy ended on August 31, 2019. The tenant stated that the landlord was not provided with her forwarding address in writing for return of the security deposit as she is still currently of no fixed address.

The landlord provided affirmed direct testimony that an application for dispute for return of the \$300.00 security deposit was made but is unable to provide a file number or a hearing date. The landlord confirmed that she still holds the \$300.00 security deposit and that the tenancy did end on August 31, 2019.

### Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing.

In this case, I accept the undisputed affirmed evidence of both parties that the tenancy ended on August 31, 2019. However, the tenant confirmed in her direct affirmed testimony that her forwarding address was not provided to the landlord for return of the

security deposit. The landlord confirmed that she did not file an application for dispute for return of the security deposit and still holds the \$300.00 security deposit. On this basis, the tenant is granted a monetary order for return of the security deposit.

Conclusion

The tenant is granted a monetary order for \$300.00.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: January 17, 2020

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Residential Tenancy Branch