



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of the security deposit (the deposit).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on March 30, 2020, the tenants sent the landlord the Notice of Direct Request Proceeding by registered mail. The tenants provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the landlord is deemed to have been served with the Direct Request Proceeding documents on April 4, 2020, the fifth day after their registered mailing.

### Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on February 17, 2020, indicating a monthly rent of \$1,085.00, a security deposit of

\$540.00, and a pet damage deposit due of \$540.00, for a tenancy commencing on March 15, 2020;

- A copy of a lease termination agreement letter dated February 23, 2020, indicating the tenancy would end, providing the landlord the tenants' forwarding address, and requesting the return of the deposit;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was sent to the landlord by registered mail on March 23, 2020;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the forwarding address was sent to the landlord on March 23, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet). showing the amount of deposit paid by the tenants and indicating that the tenancy ended on February 24, 2020.

### Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the landlord was deemed served with the forwarding address on March 28, 2020, five days after its registered mailing.

Section 38(1) of the *Act* states that within fifteen days of the tenancy ending and the landlord receiving the forwarding address, the landlord may either repay the deposits or make an application for dispute resolution claiming against the deposits.

I find that the tenants applied for dispute resolution on March 23, 2020, the same day they sent the forwarding address by registered mail, and before the landlord was deemed to have received the forwarding address.

I find that the tenants made their application for dispute resolution too early.

Therefore, the tenants' application for a Monetary Order for the return of the security deposit is dismissed with leave to reapply.

As the tenants were not successful in this application, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenants' application for a Monetary Order for the return of the security deposit with leave to reapply.

I dismiss the tenants' application to recover the filing fee paid for this application without 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: April 06, 2020

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Residential Tenancy Branch