



# Dispute Resolution Services

Page: 1

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 tenant for a Monetary Order for the return of double the security deposit (the deposit).

The tenant submitted two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on June 18, 2020, the tenant sent each of the landlords the Notice of Direct Request Proceeding by registered mail. The tenant provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlords are deemed to have been served with the Direct Request Proceeding documents on June 23, 2020, the fifth day after their registered mailing.

### Issue(s) to be Decided

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

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

### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenant on November 20, 2011, indicating a monthly rent of \$950.00 and a security deposit of \$475.00, for a tenancy commencing on December 15, 2011;

- A copy of a letter from the tenant to the landlords providing the 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 landlords by registered mail at 3:02 pm on April 28, 2020;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the forwarding address was sent to the landlords on April 28, 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 tenant and indicating the tenancy ended on May 31, 2020.

### Analysis

I have reviewed all documentary evidence and I find the landlords were deemed to have received the forwarding address on May 3, 2020, five days after its registered mailing.

I accept the tenant's statement that the tenancy ended on May 31, 2020.

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 fifteenth day for the landlords to have either returned the deposit or filed for dispute resolution was June 15, 2020.

However, section 90 of the *Act* states that a document sent by regular or registered mail is deemed received on the fifth day after it was sent. If the landlords sent the deposit by mail on their last day, the tenant may not have received the deposit until June 20, 2020.

I find that the tenant applied for dispute resolution on June 17, 2020, before they could have known whether the landlords complied with the provisions of section 38(1) of the *Act*, and that the earliest date the tenant could have applied for dispute resolution was June 21, 2020.

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

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

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

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

I dismiss the tenant's 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: July 06, 2020

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Residential Tenancy Branch