



# Dispute Resolution Services

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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 their security deposit pursuant to section 38.

The landlord's daughter attended with the landlord and testified on behalf of the landlord in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to call witnesses, and to make submissions.

The landlord confirmed receipt of the tenant's application for dispute resolution ('application'). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application. The landlord did not submit any written evidence for this hearing.

### **Background and Evidence**

Both parties confirmed in the hearing that a tenancy had begun sometime in 2007 with a different tenant who resided at the suite with his wife and child. The landlord testified that monthly rent was set at \$1,350.00, and a security deposit was collected equivalent to half of that amount. At some point the wife and child moved out, and the tenant requested permission to have another party move in.

The landlord testified that in 2017 they were informed by the tenant in this application that his friend, the original tenant, had passed away, and that he would be the party paying the rent from that point on. The tenancy continued until May 2020 when the house had burnt down. Monthly rent was set at \$1,450.00.

The tenant testified that the landlord had in fact collected \$1,350.00 for that security deposit, which was not returned to him. The tenant testified that the receipt was lost in the fire, and that he had provided the landlord with his forwarding address.

The landlord testified that the tenant had never provided a forwarding address, and do not believe that the tenant is entitled to the return of the original security deposit.

### **Analysis**

Section 38 (1) of the *Act* states that within 15 days of the latter of receiving the tenant's forwarding address in writing, and the date the tenant moves out, the landlord must either return the tenant's security deposit, or make an application for dispute resolution against that deposit.

The tenant testified in the hearing that he had provided his forwarding address to the landlord. In this case I am not satisfied that the tenant had provided his forwarding address to the landlord in accordance with the *Act*. As both parties were present in the hearing, the tenant's forwarding address was confirmed during the hearing. I informed the landlord that if the *Act* applies, they had 15 days from the date of the hearing to either return the security deposit to the tenant in full, obtain written consent to deduct a portion or keep the deposit, or make an Application to retain a portion or all of it. I make no findings on the merits of this matter.

### **Conclusion**

The tenant's application is dismissed with leave to reapply.

The tenant's forwarding address was confirmed during the hearing, and the landlord was informed that they had 15 days from the date of the hearing date to either return the security deposit to the tenant in full, obtain written consent to deduct a portion or keep the deposit, or make an Application to retain a portion or all of it. If the landlord fails to comply with section 38 of the *Act*, the tenant may reapply. Liberty to reapply is not an extension of any applicable limitation period.

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: March 15, 2021