



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSDS-DR, FFT

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- an order for the landlord to return the security deposit, under section 38; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 1:41 P.M. to enable the landlord to call into this teleconference hearing scheduled for 1:30 P.M. The landlord did not attend the hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

At the outset of the hearing the tenant affirmed she understands it is prohibited to record this hearing.

The tenant stated she served the notice of dispute resolution and the evidence (the materials) by placing them in the landlord's mailbox on April 29, 2021. The notice of dispute resolution is dated January 08, 2021.

Rule of Procedure 3.1 states:

3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package

**The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:**

a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute

Resolution;

- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

(emphasis added)

Section 89 of the Act states:

**(1)An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:**

- (a)by leaving a copy with the person;
- (b)if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c)by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d)if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e)as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

(emphasis added)

The tenant (applicant) did not serve the landlord (respondent) in accordance with section 89 of the Act, as the tenant served the materials by placing them in the landlord's mailbox on April 29, 2021. Furthermore, the tenant did not comply with Rule of Procedure 3.1.

As such, I dismiss the tenant's application for an order for the landlord to return the security deposit 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 an order for the landlord to return the security deposit with leave to reapply.

I dismiss the tenant's application for an authorization to recover the filing fee 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: May 12, 2021

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Residential Tenancy Branch