



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nova Relocation Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction, Preliminary and Procedural Matters-

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a return of his security deposit, doubled; and
- recovery of the filing fee.

The tenant attended the hearing; however, the landlord or agent did not attend.

The tenant was affirmed into the hearing and confirmed that he was not recording the hearing.

The tenant submitted that he had no contact information or address for the landlord as he was never given a written tenancy agreement or any other information about the landlord during the tenancy. The tenant submitted that he served his Application for Dispute Resolution, evidence, and Notice of Hearing (application package) to an address found on the landlord's website. The tenant said he sent three registered mail packages to the landlord and all were returned.

I am not satisfied that the tenant served the landlord with his application for dispute resolution in a manner complying with section 89(1) of the Act, by registered mail or by personal service, due to insufficient evidence that the address used was the proper address.

Nonetheless, in addition, the tenant gave his forwarding address in a text message to a person said to be working for the landlord. The tenant provided the text message communication between the parties, but the landlord or agent did not respond or

acknowledge that text message containing the address. I therefore find the tenant did not serve this written forwarding address in a manner required under section 88 of the Act.

### Analysis and Conclusion

Based on the documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Under section 38(1) of the Act, a landlord is required to either repay a tenant's security deposit or to file an application for dispute resolution to retain the deposit within 15 days of the later of receiving the tenant's forwarding address in writing or at the end of a tenancy. Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of her security deposit.

Section 88 of the Act provides that documents, the written forwarding address in this case, that are required to be served on another party, the landlord in this case, **must** be given or served in the ways listed in this section of the Act. Text message communication is not an approved method of delivery of those documents under the Act.

I therefore find that the tenant's application is premature, due to the fact that the tenant confirmed he has not provided his written forwarding address in writing to the landlord in a way required by section 88 of the Act.

The tenant should have served his forwarding address in writing to the landlord in accordance with the Act and allow the landlord the applicable timeline under section 38 of the Act, which is fifteen days, to either return the security deposit in full or file an application claiming against those the deposit.

I therefore dismiss the tenant's application, with leave to reapply.

As the tenant's application was premature, I do not grant the tenant the recovery of the filing fee.

The tenant should be aware of section 39 of the Act which states that if a tenant does not give a landlord a forwarding address in writing within one year after the end of the

tenancy, the landlord may keep the security deposit, and the right of the tenant to the return of the security deposit is extinguished.

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: November 4, 2021

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Residential Tenancy Branch