



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNRL-S

### Introduction and preliminary matters

On November 15, 2021, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”) and seeking to apply the security deposit towards this debt pursuant to Section 67 of the *Act*.

J.Y. attended the hearing as an agent for the Landlord; however, the Tenant did not attend the hearing at any point during the 39-minute teleconference. At the outset of the hearing, I informed J.Y. that recording of the hearing was prohibited and he was reminded to refrain from doing so. As well, he provided a solemn affirmation.

He advised that on October 31, 2021, it appeared as if a friend of the Tenant sent an email, from the Tenant’s email account, stating that the Tenant was in provincial custody and would not be released. As such, this friend provided their own address for service in the email. There was no indication of this person’s identity, and no authorization from the Tenant confirming that this was permitted.

He submitted that the Notice of Hearing package was then served to this address by registered mail on November 18, 2021, and that the evidence package was served to this address by registered mail on November 19, 2021 (the registered mail tracking numbers are noted on the first page of this Decision). He stated that these were delivered; however, he could not find out who signed for these packages.

Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receives the Tenant’s forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an

Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*.

Based on the undisputed evidence before me, I am not satisfied that the person who sent this email was the Tenant, nor am I satisfied that the Tenant permitted this person to act on their behalf. Furthermore, I am not satisfied that an email would constitute an address provided in writing as outlined by the *Act*. As such, I find that the Tenant has yet to provide a forwarding address in writing to the Landlord. Consequently, I am not satisfied that the Notice of Hearing and evidence package were sufficiently served to the Tenant. Therefore, I dismiss this Application with leave to reapply.

### Conclusion

I dismiss the Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the legislation. I have not made any findings of fact or law with respect to the Application.

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: June 17, 2022

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Residential Tenancy Branch