



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlord: MNDC MNSD FF  
Tenant: MNSD FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference.

The Landlord and the Tenant both attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

### *Landlord's application*

The Landlord tried to serve the Tenant by posting his Notice of Dispute Resolution Proceeding and evidence package to the front door of the apartment building where the Tenant lives. However, the Tenant did not receive it.

I note that section 89(1) and 89(2) of the Act lays out certain service requirements for the Notice of Dispute Resolution, and the Notice of Hearing. Section 89(2) of the Act lays out specific service requirements for applications which involve an order of possession. Section 89(1) lays out the service requirements for all other applications, including applications for monetary compensation.

I note this application is for monetary compensation. As such, the service requirements for this application are laid out in section 89(1) of the Act. Posting the Notice of Dispute Resolution and application package to the front door is not an acceptable method of service for an application for monetary compensation. Applications for monetary compensation must be served 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].*

I find the Landlord has failed to sufficiently serve the Tenant with his application and Notice of Dispute Resolution. I dismiss the Landlord's application, with leave to reapply. However, this is not an extension of any statutory limits.

#### *Tenants' application*

The Tenant sent his Notice of Dispute Resolution Proceeding and evidence package to the Landlord via email to the email address the Landlord provided on the tenancy agreement as an address for service. The Landlord denied getting any of the documentation from the Tenant. While email may be an acceptable way to serve, since the Landlord provided this email address as a method of service, I note the Tenants have not provided any proof of service for the Notice of Dispute Resolution Proceeding package they said they sent. They could and should have provided screen shots of emails sent, along with what attachments were included. Ultimately, there is insufficient evidence that the Tenants served their Notice of Dispute Resolution Proceeding package to the Landlord. Proof of service documents were only provided for the forwarding address, and the notice for move out.

I dismiss the Tenant's application, in full, with leave.

Given the Landlord's application against the Tenant's security deposit is dismissed, I turn to the following portion of Policy Guideline #17:

#### ***C. RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH DISPUTE RESOLUTION***

***1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:***

- a landlord's application to retain all or part of the security deposit; or***
- a tenant's application for the return of the deposit.***

*unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.*

There is no evidence before me to show that the Tenant extinguished his right to the deposit. In fact, the Landlord failed to complete a move-in condition inspection report, so the Landlord extinguished his right to file a claim against the deposits for damage. However, extinguishment only applies to claims for damage, not for other monetary issues, such as utilities or rent. I note the Landlord stated he received the Tenant's forwarding address in writing on May 31, 2024, and he filed his claim against the deposit (for matters above and beyond just damage) on June 13, 2024. The Act allows 15 days for this to happen, and the Landlord complied with the 15 day limit, so I will order the return of the deposits, plus interest, but the Tenants are not entitled to double the deposits.

The Landlord holds \$1,029.51, including the applicable interest, which must be returned, forthwith, to the Tenants.

## **Conclusion**

The Tenants are granted a monetary order pursuant to Section 67 in the amount of **\$1,029.51**. This order must be served on the Landlords. If the Landlords fail to comply with this order the Tenants may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

The Landlord is granted leave to reapply for any items he wishes to receive compensation for, but those matters will be decided at a future hearing. The Tenant is also granted leave to reapply for any monetary matters above and beyond the security deposit matters.

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: August 30, 2024

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Residential Tenancy Branch