



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of this application. The details portion of the application requests a monetary order for double the amount of deposits.

The tenant attended the conference call hearing, provided evidence in advance of the hearing, and gave affirmed testimony, all of which has been reviewed and is considered in this Decision. Despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on April 24, 2012, no one for the landlord company attended. The tenant provided testimony of having sent the documents on that date and by that method, and orally provided a tracking number assigned by Canada Post, and I find that the landlord has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of all or part of the pet damage deposit or security deposit, or double the amount of such deposits?

### Background and Evidence

The tenant testified that this fixed term tenancy began on April 22, 2008 and expired after 6 months and then reverted to a month-to-month tenancy, which ultimately ended on November 1, 2011. Rent in the amount of \$830.00 per month was payable in advance on the last day of the previous month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$415.00.

The tenant further testified that since the filing of the Tenant's Application for Dispute Resolution, the landlord returned \$418.74 to the tenant by way of cheque. The tenant

photocopied the cheque prior to depositing it into the bank, and the tenant noticed some time after that the cheque was post-dated to August 9, 2013. The tenant does not recall the date that the cheque was received nor the date it was deposited, but stated that it was a couple of months ago. The tenant's application was filed on April 24, 2012, and the bank has not returned the post-dated cheque.

The tenant did not provide the landlord with a forwarding address in writing, but testified to calling the manager of the complex and orally providing a forwarding address. The tenant subsequently contacted the manager and was told that the landlord company was not returning calls or emails, and no response about returning the security deposit to the tenant was ever received. The tenant further testified that the amount of the security deposit was \$415.00 but the landlord returned \$418.74. The tenant applies for double the amount of the security deposit and recovery of the \$50.00 filing fee for the cost of this application because the landlord company would not return the security deposit until being served with the dispute resolution proceeding documents.

### Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit within 15 days of the later of the date the tenancy ends or the date the tenant provides a forwarding address in writing. If a landlord fails to do so, the landlord must be ordered to pay the tenant back double the amount of the deposit.

In this case, the tenant did not provide the landlord with a forwarding address in writing, and therefore the tenant is not entitled to double recovery of the security deposit. It is clear in the circumstances that the landlord has a forwarding address because the cheque was received by the tenant. However, I am somewhat concerned that the cheque provided to the tenant by the landlord is post-dated almost 22 months past the date that the tenancy ended, however, I cannot issue a monetary order for a claim that has already been paid. In the event that the cheque is returned by the bank as being post-dated, stale-dated or returned for any other reason, I grant leave to the tenant to reapply.

I am also not clear on the amount of interest the landlord paid to the tenant, however, without the testimony or any evidence of the date the tenant received the cheque, I cannot find that the landlord has not issued the correct amount of interest on the post-dated cheque. Further, I cannot determine, absent the date the cheque was received, that the tenant should be entitled to recovery of the filing fee for the cost of this application.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed. In the event that the landlord's cheque is returned by the tenant's financial institution, I hereby grant leave to the tenant 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: June 19, 2012.

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Residential Tenancy Branch