



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LEUNG'S W.C. HOLDINGS CANADA LTD.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenant for the return of double the security deposit and to recover the filing fee for the cost of the Application.

The Tenant and Landlord appeared for the hearing and the Landlord confirmed receipt of the Tenant's Application and the Notice of Hearing documents which were served by registered mail pursuant to Section 89(1) (c) of the Act.

At the start of the hearing the Landlord and Tenant agreed that a \$435.00 security deposit had been paid by the Tenant to the Landlord on October 1, 1999 which the Landlord still retained.

The parties agreed that the tenancy had ended on April 1, 2012 and the Tenant had given the Landlord a forwarding address in writing on January 20, 2013. The Landlord made an Application (the file number for which appears on the first page of this decision) on February 1, 2013 to keep the Tenant's security deposit and for other monies claimed to be owed by the Tenant.

A hearing was scheduled to take place on April 24, 2013 to hear the Landlord's monetary claim. The Tenant appeared for the hearing but the Landlord did not. As the Landlord had failed to appear for the hearing to present the merits of the Application and the Tenant was ready to proceed, the arbitrator dismissed the Landlord's Application **without** leave to re-apply.

In response to the Tenant's claim, the Landlord submitted in written evidence and during the hearing that the Tenant's Application be dismissed because of the alleged damages caused to the rental suite.

The provisions of Section 38 of the Act were explained to the Landlord during the hearing and these provisions are further expanded on in Policy Guideline<sup>17</sup> to the Act

which states that if a Landlord extinguishes their right to keep a security deposit they must pay the Tenant double the amount back.

As the Landlord had failed to appear for the hearing scheduled on April 24, 2013 and had subsequently not returned the Tenant's security deposit, the Landlord extinguished their right to keep the Tenant's security deposit and the Tenant is entitled to double the amount back.

However, during the hearing, the parties decided to settle the Tenant's Application through a settlement agreement.

### Settlement Agreement

Pursuant to Section 63 of the Act, the arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

Both parties **agreed** to settle the Tenant's Application in full as follows:

- The Landlord will pay the Tenant in the amount **\$525.91** forthwith after receipt of this decision.
- This is in full satisfaction of the Tenant's Application.
- This amount includes the Tenant's original security deposit (\$435.00), the interest payable on this amount (\$40.91), and the \$50.00 filing fee.
- The Tenant is issued with a Monetary Order in the amount of **\$525.91** which is enforceable in the Small Claims court if the Landlord fails to make payment in accordance with this agreement.

This agreement and order is fully binding on the parties. The parties are cautioned to retain evidence in relation to the steps taken to meet the above terms and conditions.

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: July 21, 2014

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Residential Tenancy Branch

