



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, MNSD

### Introduction

This hearing was scheduled in response to the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for damage or compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67; and
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;

The tenant and the landlords attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing, the male landlord testified that the tenant spelled his surname incorrectly in the application. Accordingly, with the parties consent, I have amended the tenant's application to reflect the spelling provided by the landlord during the hearing.

The landlords confirmed that they had received the tenant's application and evidence. As the landlords did not raise any issues regarding service of the application or the evidence, I find that the landlords were duly served with these documents in accordance with sections 88 and 89 of the *Act*.

The landlords testified that they emailed their evidence package to the tenant on December 31, 2018. The tenant acknowledged receipt of the email but contended it was not served in accordance with the *Act*. Since the tenant acknowledged receipt of the evidence from the landlords via email, pursuant to section 71 of the *Act*, I deem the tenant sufficiently served with the landlords' evidence.

During the hearing the tenant consistently interrupted the landlord throughout the proceedings and had to be warned multiple times to discontinue this disruptive behaviour.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for damage or compensation under the *Act, Regulation* or tenancy agreement?

Is the tenant authorized to obtain a return of all or a portion of the security deposit?

Background and Evidence

As per the submitted tenancy agreement and testimony of the parties, the tenancy began July 1, 2017 on a fixed term until June 30, 2018 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$750.00 was payable on the first of each month. The tenant vacated the rental unit July 31, 2018.

The tenant testified that she remitted a security and pet deposit in the total amount of \$750.00 at the start of the tenancy. The tenant testified that she did not provide her forwarding address out of concerns for her safety. Instead she provided her email address. She testified that the landlords retained the deposits until August 31, 2018 at which time they returned \$440.00 by way of e-transfer to the email address she provided. The tenant testified that she did not authorize the landlords to withhold any portion of her security deposit and therefore seeks the return of \$310.00.

The tenant testified that at the start of tenancy the landlord changed the locks at her request. She testified that she provided the landlord with the lock set and seeks reimbursement in the amount of \$25.00.

The landlords confirmed they returned \$440.00 by way of e-transfer to the email address provided by the tenant. The landlords argued the tenant has been overcompensated as the tenancy agreement does not reflect the pet deposit was even paid. In the alternative, the landlords contended they were authorized to withhold \$310.00 for cleaning and garbage disposal.

The landlords testified that they gave the tenant another lock set in exchange for the use of hers; therefore she has already been compensated for the lock set.

### Analysis

Section 38 of the *Act* establishes that a landlord has fifteen days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to file an arbitration application claiming against the deposit, or return the deposit. A landlord is not required to take action before this time limit, meaning if the tenant has not yet provided the landlord with a forwarding address in writing the landlord is not required to take action.

Although the tenant testified that she provided a forwarding email address, she acknowledged she has not provided a mailing address to date. The submission of an email address does not meet the requirement of a forwarding address. In this case, I find the landlord was not required to return the deposit upon receipt of the email address. Although the landlord is at liberty to return the security deposit by using any form of electronic payment including e-transfer, this does not negate the tenant's obligation to provide her proper mailing address. I find the tenant has not met the burden of providing her mailing address in writing. Accordingly, I dismiss this portion of the tenant's claim with leave to reapply.

Under section 25 of the *Act*, at the request of a tenant at the start of a new tenancy, the landlord must re-key or otherwise change the locks so that the keys issued to previous tenants do not give access to the rental unit. The landlord is required to pay for any costs associated with changing the locks. In this case, I find the landlords have failed to prove they reimbursed the tenant for the cost of the lock set and therefore award the tenant \$25.00.

As the tenant was not entirely successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for the application.

### Conclusion

The tenant's application for a monetary order for return of the security deposit is dismissed with leave to reapply.

I issue a monetary order in the tenant's favour in the amount of \$25.00 against the landlords.

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: January 11, 2019

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Residential Tenancy Branch