



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, MNSD

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- a monetary order for compensation for loss or damage under the Act, regulation or tenancy agreement pursuant to section 67; and

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue to be Decided

Is the tenant entitled to a monetary award equivalent to double the value of her security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*?

Is the tenant entitled to a monetary order as compensation?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background, Evidence

The tenant's testimony is as follows. The tenancy began on November 28, 2017 and ended on June 6, 2018. The tenant was obligated to pay \$1150.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$575.00 security deposit. The tenant testified that when she paid her June 2018 rent she was told by the owner that he wanted to take the property back in November or December for his elderly parents to use. The tenant testified that on June 2, 2018 she found a place and was out by June 6, 2018. The tenant testified that the landlords gave her \$575.00 back as she used the suite for less than half a month. The tenant testified that she believes she is entitled to an additional \$575.00 for the remainder of June's rent and double the security deposit as the landlord has not returned it.

The landlord gave the following testimony. The landlord testified that she did not want the tenant to move out so abruptly. The landlord testified that her husband was only discussing the long term plans with the tenant to assist her. The landlord testified that she did give the tenant written notice to end the tenancy. The landlord testified that the tenant gave only two days' notice that she would be moving out. The landlord testified that she has already returned \$575.00 which is the deposit to the tenant and that her application should be dismissed.

### Analysis

Although there was some dispute about the term of the tenancy, I find that based on the documentation before me; the parties were in a month to month tenancy. Sections 45 and 52 address the issue before me as follows:

#### **Tenant's notice**

- 45** (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a) is not earlier than one month after the date the landlord receives the notice, and
  - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

#### **Form and content of notice to end tenancy**

**52** In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

The tenant confirmed that she did not receive a written notice from the landlord to end the tenancy. The tenant also confirmed that she did not give one full month's notice in writing that she would be ending the tenancy. The landlord is entitled to retain the rent for June 2018 and was under no obligation to return it as the tenant did not provide proper written notice as noted above.

The landlord has already returned \$575.00 to the tenant. I find that the tenant has already received her deposit and that no further compensation is required; accordingly, I dismiss the tenants' application in its entirety without leave to reapply.

### Conclusion

The tenants' application is dismissed in its entirety without leave 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: February 04, 2019

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Residential Tenancy Branch