



# 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 as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held, via teleconference, on October 21, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- An order that the Landlord return all or part of the security deposit or pet damage deposit

The Tenant attended the hearing. However, the Landlord did not attend. The Tenant stated that she served the Notice of Hearing and evidence to the Landlord, in person at the Landlord's front door, on July 13, 2019. Pursuant to section 89 and 90 of the Act, I find the Landlord was served with this package the same day it was personally delivered to him at his front door.

The Tenant provided testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

Background and Evidence

The Tenant stated that she rented a 2 bedroom basement suite from the Landlord, who lived upstairs, and she paid \$1,050.00 per month. The Tenant stated that she paid a security deposit in the amount of \$525.00. The Tenant stated that the Landlord refused to sign a tenancy agreement, and insisted on receiving cash payments from the Tenant for rent. The Tenant also stated that the Landlord refused to give her any receipts for the payments she made. The Tenant stated that the only reason she knows his name is because he left his name when he left a voicemail for the Tenant regarding her move-out.

The Tenant stated that she drafted a tenancy agreement in writing, to summarize what the terms of the agreement were, but the Landlord refused to sign it, and did not want any paper trail. The Tenant stated she only ever had an oral tenancy agreement because the Landlord didn't want anything in writing. The Tenant stated that she paid rent for April 2019, and May 2019, in full. She further stated that she injured herself on April 13, 2019, and suffered loss of work. As such, she was unable to fully move all of her things in. The Tenant remained in possession of the rental unit, and gave her Notice to End Tenancy to the Landlord on April 30, 2019. The Tenant provided a copy of this letter into evidence, which she served to the Landlord in person on April 30, 2019. The Tenant stated that in this letter, she also provided her forwarding address in writing for the return of her deposit.

The Tenant stated that she officially moved out and returned the keys on May 30, 2019, and never received any of her deposit back from the Landlord.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to

do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, I note the Tenant served her forwarding address in writing on April 30, 2019. I find the Landlord was served with the Tenant's forwarding address on this day. I note the Tenant did not authorize any deductions from the security deposit.

Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from date the tenancy ended (May 30, 2019) to either repay the security deposit (in full) to the Tenant or make a claim against it by filing an application for dispute resolution. The Landlord did neither and I find the Landlord breached section 38(1) of the *Act*.

Accordingly, as per section 38(6)(b) of the *Act*, I find the Tenant is entitled to recover double the amount of the security deposit (\$525.00 x 2). Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenant paid to make the application for dispute resolution.

In summary, I issue the Tenant a monetary order for \$1,150.00 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

### Conclusion

I grant the Tenants a monetary order in the amount of **\$1,150.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: October 21, 2019

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Residential Tenancy Branch