



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD FF

### Introduction

This hearing was convened pursuant to the Tenant's Application for Dispute Resolution, made on February 5, 2020 (the "Application"). The Tenant applied for an order that the Landlords return all or part of the security deposit and/or pet damage deposit and to recover the filing fee, pursuant to the *Residential Tenancy Act* (the "*Act*").

The Tenant and the Landlords attended the hearing at the appointed date and time and provided affirmed testimony.

The Tenant testified the Notice of Dispute Resolution Proceeding package was served on the Landlords by registered mail. The Landlords acknowledged receipt. The Landlords testified the documentary evidence upon which they intended to rely was served on the Tenant by registered mail. The Tenant acknowledged receipt. No issues were raised during the hearing with respect to service or receipt of the above documents. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given a full 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 relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Tenant entitled to an order that the Landlords return all or part of the security deposit and/or pet damage deposit?
2. Is the Tenant entitled to an order granting recovery of the filing fee?

### Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. The agreement names the R.P. and C.D. as tenants, and J.W. and C.W. as landlords. The parties confirmed the tenancy began on March 1, 2018 and ended on May 26, 2019. The Tenant testified that C.D. moved out of the rental unit before she did. During the tenancy, rent was due in the amount of \$1,000.00 per month. The parties confirmed the Tenant and C.D. provided a security deposit of \$500.00 and a pet damage deposit of \$500.00.

The Tenant claims the deposits have not been repaid to her. She testified that a dispute resolution hearing took place on January 9, 2020. In the written decision dated January 10, 2020, the arbitrator determined that the Tenant's forwarding address in writing was deemed to be received by the Landlords five days after the date of the decision. That is, the Tenant's forwarding address in writing was deemed to have been received by the Landlords on January 15, 2020. The Tenant testified the deposits have not been returned to her. A copy of the decisions dated January 10, 2020 was submitted into evidence.

In reply, the Landlords testified the deposits were returned to C.D., the other tenant named on the tenancy agreement, on January 15, 2020. In support, the Landlords submitted a signed letter dated January 15, 2020 which states: "I, [C.D.], a previous co-tenant of the above-mentioned address, confirm receipt of return in full of the security and pet deposit for the above-mentioned rental...in the amount of \$1000.00". The Landlords testified the payment was made by Bank Draft dated January 15, 2020, a copy of which was submitted into evidence. The Landlords also relied on Policy Guideline #13 which states: "The landlord may return the deposit(s) plus any applicable interest to any tenant who is named on the tenancy agreement, regardless of who paid the deposit."

The Tenant also sought to recover the filing fee paid to make the Application.

### 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 deposits or make an application to keep them by filing an application for dispute resolution within 15 days after receiving 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 amount of the deposits. The language in the *Act* is mandatory.

In this case, I find there is insufficient evidence before me to conclude the Tenant is entitled to the relief sought. While I accept that the Landlords were deemed to have received the Tenant's forwarding address in writing on January 15, 2020, I find there is no requirement under the *Act* to direct the repayment to the forwarding address provided. I also accept that landlords are entitled to repay deposits to any tenant named on a tenancy agreement, not only a tenant named in dispute resolution proceedings, in accordance with Policy Guideline #13. I find that the Landlords repaid the deposits to C.D. by Bank Draft on January 15, 2020, in accordance with section 38(1) of the *Act*. The Landlords are not now required to repay them again to the Tenant. Accordingly, I find that the Tenant's Application is dismissed without leave to reapply. As the tenant has not been successful, I decline to award recovery of the filing fee to the Tenant.

### Conclusion

The Tenant's Application is dismissed 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: June 26, 2020

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Residential Tenancy Branch