



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

Dispute Codes: MNSD, FF

### Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- An order for the return of all of the security deposit plus an amount equal to the security deposit.
- An order to recover the filing fee for the cost of this application

### Issue(s) to be Decided

Is the tenant entitled to the return of all of his security deposit?

Is the tenant entitled to double the security deposit?

### Background and Evidence

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

The tenancy started in June 2005 and the tenant paid a security deposit of \$400.00 on June 01, 2005. The tenant was employed as the resident manager of the building. After being served a notice to end tenancy on March 30, 2008, the landlord gave the tenant an extension of two months upon his request. The date to end tenancy was June 30, 2008 and the tenant stated that he moved out on July 02, 2008. The tenant also agreed that he left his belongings in storage up to July 15, 2008.

On July 22, 2008 the landlord issued a cheque in the amount of \$ 277.80 and attached

an account of the deductions as follows:

- \$ 53.34 for rent for two days
- \$ 30.00 storage charges for 15 days
- \$ 50.00 monetary order as per a hearing on June 16, 2008

The landlord applied interest accrued in the amount of \$11.14 and issued a cheque for the balance of 277.80. The landlord stated that he suffered a loss of income in the month of July as the suite was not available on July 01, 2008. The landlord also stated that he returned the security deposit within 15 days after the tenant removed his belongings from the storage site. The tenant pointed out and landlord agreed that the storage space was separate from the rental unit. Accordingly, I find that the landlord was not within the time frame of 15 days to return the security deposit as the tenancy ended on June 30, 2008.

During the hearing the landlord raised the issues of loss of income, rent for two days in July and storage fees. Since this hearing is to address the tenant's application, the landlord is free to file a separate application for these claims.

### Analysis

Section 38 (1) of the *Residential Tenancy Act* states that within 15 days after the date the tenancy ends the landlord must repay the security deposit to the tenant with interest or make an application to claim against the security deposit. The landlord did not return the deposit in a timely manner nor did he apply to make a claim against it, as the tenancy ended on June 30, 2008 and the landlord issued a cheque on July 22, 2008.

Section 38 (4) (a) states that the landlord may retain an amount from the security deposit if the tenant agrees in writing that the landlord may retain the amount to pay an obligation of the tenant. In this case, I find that the tenant did not agree in writing for the landlord to retain any part of the damage deposit, hence the tenant is entitled to the entire security deposit.

Section 38 (6) (b) states that if the landlord does not comply with the above mentioned sections, the landlord must pay the tenant double the amount of the security deposit. Accordingly, I find that the tenant is entitled to double the security deposit after the monetary order has been applied.

### Conclusion

I find that the tenant has established his claim for the following amounts:

- \$ 350.00 return of damage deposit after \$50.00 is applied towards the monetary order
- \$ 350.00 double the security deposit
- \$ 11.14 interest accrued on security deposit
- \$ 50.00 fee for filing this application

The tenant has received a cheque in the amount of \$ 277.80; hence I grant the tenant an order under section 67 for the balance of \$483.34. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated September 30, 2008.