



# Dispute Resolution Services

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

## Decision

Dispute Codes: MNDC, MNSD, FF

### Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of her security deposit and other compensation. Both parties participated in the conference call hearing and had opportunity to be heard.

### Issue(s) to be Decided

Is the tenant entitled to receive double her security deposit?

Is the tenant entitled to the equivalent of ½ of a month's rent?

Is the tenant entitled to the equivalent of two months rent?

### Background and Evidence

The tenancy began on May 10, 2008. The tenant paid a security deposit of \$650.00 at that time and paid \$1,300.00 per month in rent during the tenancy. The tenant testified that at the beginning of the tenancy she asked the landlord to paint the rental unit and when he refused, she hired a painter who painted the walls white in accordance with the landlord's wishes. The tenant testified that in June she gave the landlord \$650.00 in rent and the receipts from the painter, which the landlord acknowledged having accepted in full satisfaction of the rent for that month. On May 26 the parties agreed that the landlord served the tenant with a two-month notice to end tenancy, which stated that the landlord or a close family member intended to reside in the rental unit. The notice was to be effective July 31. The landlord testified that his adoptive mother had planned to come from India to live in the rental unit and further testified that her plans changed and she did not move into the rental unit.

On June 22 the tenant gave the landlord notice that she would be vacating the rental unit on July 15, in accordance with section 50 of the Act. The notice included the tenant's forwarding address and the landlord acknowledged having received the notice.

The tenant did not pay rent in July and vacated the rental unit on July 15.

The tenant seeks the return of double her security deposit pursuant to section 38 of the Act. The tenant also seeks compensation pursuant to section 51(1) of the Act, which would amount to \$650.00 as the tenant enjoyed living rent-free for the first half of July. The tenant also seeks \$2,600.00 in compensation pursuant to section 51(2) of the Act as she claims the landlord did not accomplish the purpose stated on the notice to end tenancy.

The tenant provided copies of newspaper and Craigslist advertisements in which an upstairs rental was advertised with the landlord's telephone number as the contact number. The advertisements described an upper floor suite with new hardwood floors and access to a carport and shed. The landlord testified that he installed hardwood floors in the rental unit at the end of the tenancy, but that the advertisements were placed to advertise a different rental unit belonging to one of his relatives. The landlord provided the telephone number of the relative, but he was not contacted during the hearing as the landlord indicated that the relative's English skills were limited. The landlord testified that his adoptive mother changed her plans to come to Canada and that the rental unit was currently sitting empty. The landlord stated that he was currently in the process of looking for a "mortgage-helper" and when asked to explain what he meant by that, he said he wanted to find one of his relatives to live in the rental unit. The landlord insisted that no advertising respecting the rental unit had been placed.

### Analysis

Section 38(1) of the Act provides that within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenants' forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$650.00 and is obligated under section 38 to return this amount together with the \$3.92 in interest which has accrued to the

date of this judgment. The amount that is doubled is the base amount of the deposit, making the total security deposit award \$1,303.92.

Section 51(1) of the Act provides that a tenant who receives a two-month notice to end tenancy is entitled to receive the equivalent of one month's rent, which entitlement may be applied as rent to the last month of occupancy. The tenant occupied the rental unit rent-free for one half of July and I find she is entitled to recover one half of one month's rent, or \$650.00, to complete the compensation to which she is entitled.

Section 51(2) of the Act provides that a landlord who does not take steps to accomplish the stated purpose on the notice to end tenancy within a reasonable time must pay to the tenant the equivalent of double one month's rent, or \$2,600.00. I am not persuaded on the balance of probabilities that the advertisements placed in the local papers and on Craigslist were for another property. Further, the landlord acknowledged that his adoptive mother was not going to be moving into the rental unit and that he was looking for a mortgage helper from amongst his other relatives. The landlord ended the tenancy by stating that a close family member was moving into the rental unit. The Act defines "close family member" as a parent, child or spouse of the landlord or his spouse. I find the landlord has failed to prove that he has taken reasonable steps to have a close family member move into the rental unit and accordingly find that the tenant is entitled to an award of \$2,600.00.

I find that the tenant is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I grant the tenant an order under section 67 for \$4,603.92, which sum includes the double security deposit, interest payable on the security deposit, ½ of one month's rent in compensation for the giving of the two month notice to end tenancy, double one month's rent in compensation for failing to act in accordance with the notice to end tenancy and the filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 03, 2008.

