

# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** *MNSD, OLC, RPP, FF*

### **Introduction**

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for a monetary order for the return of the security deposit, for compensation for loss under the Act and to recover the filing fee. The tenant also applied for the return of her rent cheque for January.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be Decided**

Is the tenant entitled to the return of double the security deposit and the filing fee?

### **Background and Evidence**

The tenancy started on September 01, 2008 for a fixed term of 12 months. The tenant paid a security deposit of \$600.00, on August 05, 2008. The monthly rent was \$1,200.00.

On December 15, 2008 the tenant moved out of the rental unit and provided the landlord with her forwarding address.

The landlord applied to be compensated for loss of income due to the violation of the fixed term lease on the part of the tenant. This matter was heard on February 17, 2009 and the landlord was awarded \$1,250.00 which included rent for January 2009 and the filing fee. The tenant paid the amount of the award to the landlord on March 14, 2009. The landlord acknowledged receipt of the same.

The tenant stated that as of this date she has not received the security deposit and is claiming double the security deposit along with the filing fee.

The tenant is also seeking an order for the return of her rent cheque for January which was a post dated cheque given to the landlord at the start of the tenancy.

The landlord agreed to return the rent cheque to the tenant. He stated that he intended returning the security deposit after he received the amount of the award. He also stated that having received the award, he did not get around to mailing the security deposit back to the tenant. The landlord argued that he did not agree with the tenant's claim for double the security deposit and has filed a receipt in the amount of \$183.75 for cleaning costs.

### **Analysis**

Section 38 (1) of the *Residential Tenancy Act* states that within 15 days after the later of the date the tenancy ends or the date that the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit to the tenant with interest or make an application to claim against the security deposit.

If the landlord fails to do so, the landlord may not make a claim against the security deposit and must pay the tenant double the base amount of the security deposit plus accrued interest.

I find that the tenancy ended on December 15, 2008, and that the tenant provided the landlord with a forwarding address in writing, on December 15, 2008. The landlord did not repay the security nor make an application for dispute resolution within 15 days of the date that the tenant provided the landlord with a forwarding address.

During the hearing on February 17, 2009, the landlord refused an opportunity to have the security deposit set off from the loss of income for January, even though the tenant agreed to it.

Accordingly, pursuant to Section 38(6) of the *Residential Tenancy Act*, I find that the tenant is entitled to the return of double the security deposit, the accrued interest on the base amount and the filing fee in the amount of \$50.00.

The tenant has established a claim for the following:

1.	Security Deposit	\$600.00
2.	Accrued Interest	\$3.00
3.	Base amount of deposit	\$600.00
4.	Filing Fee	\$50.00
	Total	<b>\$1253.00</b>

### **Conclusion**

I hereby grant the tenant an order under section 67 of the *Residential Tenancy Act*, for the total of **\$1253.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I also order the landlord to return to the tenant, the rent cheque for January that was given to him by the tenant, at the start of the tenancy.

Dated April 14, 2009.

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Dispute Resolution Officer