

# 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 an order for the return of her personal property, a monetary order and an order for the return of double her security deposit. The tenant submitted evidence that she had served the landlord with the application for dispute resolution and notice of hearing by registered mail. The letter to the landlord was returned to the tenant as unclaimed and was submitted as evidence. I found that the landlord was properly served with the application for dispute resolution and notice of hearing and the hearing proceeded in his absence.

## Issue(s) to be Decided

Is the tenant entitled to a monetary order as requested?

Is the tenant entitled to an order for the return of double her security deposit?

## Background and Evidence

The tenant testified that she moved into the rental unit in late November 2008 and paid a \$300.00 security deposit on November 8, 2008. The tenant testified that she left the rental unit on March 1 having removed some of her belongings and on or about March 4 returned to the rental unit with friends to remove larger items that she had been unable to carry by herself. On that date, the landlord refused to allow her friends to enter the rental unit and would not permit the tenant to access a separate storage area in which she had kept many of her belongings. The tenant testified that since the time she made her application, she had received back all of her belongings except for two wing-backed chairs which she described as being old. The tenant testified that it would cost her \$1,399.00 to replace the two chairs with new chairs.

The tenant also seeks an order for the return of her security deposit. When asked if she had provided her forwarding address in writing, the tenant replied that she had put her

address on the application for dispute resolution.

### Analysis

I accept the tenant's undisputed testimony and find that the landlord wrongfully distrained the tenant's chairs. I find that the tenant is entitled to the value of the chairs at the time of the loss, not the replacement value. In the absence of proof of the value of the chairs and in light of their advanced age, I find that the tenant will be adequately compensated by an award of \$50.00. I find it appropriate to order compensation rather than ordering the return of the chairs and dismiss the claim for an order that the landlord return the tenant's property.

As for the tenant's claim for the return of her security deposit, the Act provides that the landlord is not obligated to return the deposit until he receives the tenant's forwarding address in writing. The tenant may not make an application for the return of her security deposit until 15 days after the landlord has received her forwarding address in writing. In this case, the tenant applied prior to serving the landlord with her address. I find that the application is premature and dismiss the claim with leave to reapply. I direct the tenant to serve the landlord with her forwarding address together with a copy of this decision. The landlord is advised to accept further registered letters from the tenant.

### Conclusion

The tenant has established a claim for \$50.00 and I grant the tenant a monetary order under section 67 for that sum. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated May 13, 2009.

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