



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes            MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the tenant for a monetary order for money owed or compensation for loss or damage under the Residential Tenancy Act (Act), regulation or tenancy agreement. The tenant also seeks a Monetary Order for double her security deposit and to recover her filing fee paid for this application.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were sent to the landlords by registered mail on April 22, 2010. Mail receipt numbers were provided in the tenants' documentary evidence. The landlords were deemed to be served the hearing documents on April 27, 2010 the fifth day after they were mailed as per section 90(a) of the *Act*. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Act*.

### Issues(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for loss or damage?
- Is the tenant entitled to recover double her security deposit?

## Background and Evidence

The undisputed testimony of the tenant is that this tenancy started on January 01, 2009. This was a verbal agreement and the tenant rented a trailer from her landlord's which was on acreage owed by a third party. Rent was \$550.00 per month and was due on the first of each month. The tenant paid a security deposit of \$275.00 on January 01, 2009. The tenant gave her forwarding address in writing to the landlord on March 28, 2010 and again by e-mail on April 06, 2010 with requests for them to return her security deposit to her(evidence provided).

The tenant claims the landlord served her with a Two Month Notice to End Tenancy dated January 30, 2010. She vacated the rental unit according to this Notice at the end of March, 2010. The tenant testifies that she cleaned the rental unit thoroughly and took photographs of the condition of the unit at the end of her tenancy which she has provided in evidence. These photographs show the unit has been left in a clean condition

The tenant testifies that the landlords did not return her security deposit to her within 15 days of receiving her forwarding address in writing. The tenant seeks to recover double her security deposit from the landlords to the sum of \$550.00 and has amended her claim for this amount. The landlord sent her a letter stating her security deposit was \$500.00 but at the hearing the tenant confirmed this was wrong and she only paid an amount equal to half her monthly rent of \$275.00.

The tenant testifies that she had given the landlord post dated cheques up to December, 2010. She states she requested the landlords to return these cheques to her but to date they have not done so. The tenant has to put a stop on these cheques each month and incurs a cost of \$12.50 for each cheque. The tenant does this each month to give the landlord time to return the remainder of the cheques to her. The tenant has incurred costs for stopping seven of these cheques at a sum of \$87.50.

Residential Tenancy Branch  
Ministry of Housing and Social Development

The tenant states she inadvertently left behind a custom built shelf when she moved from the rental unit which the landlords disposed of without notifying her. This shelf was worth \$100.00 and the tenant seeks to recover this from the landlords.

The tenant also seeks to recover her \$50.00 filing fee from the landlords.

## Analysis

The landlords did not appear at the hearing to dispute the tenants claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlords I have considered the tenants evidence only. Section 38 of the Act states,

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) states:

(6) If a landlord does not comply with subsection (1), the landlord

(a) may not make a claim against the security deposit or any pet damage deposit, and



# Dispute Resolution Services

Page: 4

Residential Tenancy Branch  
Ministry of Housing and Social Development

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

There is no evidence to show that the landlord has applied for arbitration, within 15 days of the end of the tenancy or receipt of the forwarding address of the tenant, to retain the security deposit. Consequently, it is my decision that the tenant is entitled to double of the security deposit to the sum of **\$550.00** pursuant to section 38(6)(b) of the *Act*.

It is also my decision that the tenant is entitled to recover the costs of putting a stop on the rent cheques which the landlord has failed to return to her at the end of the tenancy. So far the tenant has had to stop seven of her rent cheques at a total cost of **\$87.50** and she is entitled to a monetary award to recover this from the landlords pursuant to s. 67 of the *Act*.

The tenant has provided insufficient evidence to support her claim of \$100.00 for a shelf which she claims the landlords disposed of. The tenant has provided no evidence of the existence of the shelf, or that the landlords disposed of it in contravention of the Act, or verification of the actual amount required to compensate her for this claimed loss, or what steps she took to mitigate the loss. Consequently this portion of her claim is dismissed.

As the tenant has been largely successful with her application I find she is entitled to recover her **\$50.00** filing fee pursuant to section 72(1) of the Act. A Monetary Order has been issued for the following amount:

Double the security deposit	\$550.00
Filing fee	\$50.00
<b>Total amount due to the tenant</b>	<b>\$687.50</b>

## Conclusion



# Dispute Resolution Services

Page: 5

Residential Tenancy Branch  
Ministry of Housing and Social Development

I HEREBY FIND largely in favor of the tenants amended monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$687.50**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

**I further Order** the landlord to return the remaining three rent cheques to the tenant for October, November and December, 2010 before October 01, 2010 or provide the tenant with evidence that these cheques have been destroyed.

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: September 01, 2010.

---

Dispute Resolution Officer