



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes MNDC, MNSD, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant, his witness and both landlords.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount of the security deposit; and for compensation for loss or damage and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on June 1, 2010 as a month to month tenancy for a monthly rent of \$800.00 due on the 1<sup>st</sup> of each month and a security deposit of \$400.00 was paid. The parties dispute that the tenancy was to end, either August 15, 2010 or August 31, 2010.

Both parties provided substantial testimony regarding events and various verbal agreements made at the start and during and even while the tenancy was ending. No written agreements were made regarding any matters of the tenancy relationship. The landlords submitted several photographs of the rental unit.

The tenant contends that he provided the landlord with a notice that he would be moving out effective August 31, 2010 on July 19, 2010. The landlords contend the tenant told the landlord on August 1, 2010 that the tenant was moving out, after they had seen him moving things out.

The landlords go on to say that because of the deterioration of the relationship they were happy to agree to have the tenant leave by the 15<sup>th</sup> and they would return to the tenant \$200.00 from rent. The landlords also contend the tenant paid only \$600.00 towards rent for August and \$200.00 towards a bed that was purchased from the landlords.



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The tenant states that he would agree to deduct the price of the bed from the security deposit but that he did not pay \$200.00 towards the bed but rather that he paid the full rent for August on July 29, 2010. The tenant seeks for return of ½ the security deposit and return of the full month's rent for August 2010 of \$800.00.

Through the photographic and written evidence the landlord's contend the tenant cause substantial damage to the rental unit in the amount of \$1,019.94. The landlords did not submit any documentation to substantiate the value of the damage.

## Analysis

Section 38 (1) of the *Act* states that a landlord must, within 15 days of the end of a tenancy and receipt of the tenant's forwarding address, return any security deposits less any mutually agreed upon amounts. Section 38(6) goes on to say that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the amount of the security deposit.

As the tenant testified in the hearing that he wants the landlord to retain \$200.00 from the security deposit for payment of the bed that he purchased from them, I find the value of the security deposit to be \$200.00 and that the tenant is entitled to double this amount, in accordance with Section 38(6).

To be successful in a claim for loss or damage under the Act, regulation or tenancy agreement the applicant bears the burden of proof to establish they have suffered a loss. While the tenant had written submissions from two witnesses, only one witness attended the hearing.

I accept the landlord's assertion that this witness did not have any direct knowledge of any agreements between the parties regarding the ending of the tenancy or of specific discussions between the landlord and the tenants. I therefore find the tenant has failed to establish that he should be compensated for the return of rent for the month of August 2010.

However, the landlord testified that they had agreed to pay the tenant \$200.00 had he vacated the rental unit by August 15, 2010. While there were some items left on side by the 15<sup>th</sup>, I find for all intents and purposes that the tenancy did end on August 15, 2010 and the tenant is entitled to the \$200.00 agreed upon payment.

While the matter before me included only the tenant's Application for Dispute Resolution for the return of the security deposit and rent and despite the landlord providing evidence of damage to the rental unit, I make no ruling on the landlord's entitlement for



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compensation for any of that damage and the landlord remains at liberty to file a separate Application for Dispute Resolution.

## Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$650.00** comprised of \$400.00 for double the security deposit; \$200.00 for previously agreed upon reduction in August rent; and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: January 04, 2011.

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Residential Tenancy Branch