



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Landlord filed for an order to keep the security deposit in partial satisfaction of the claim, for a monetary order for money owed or compensation under the Act or tenancy agreement and to recover the filing fee for the Application.

The Tenant filed for a monetary order for return of double the security deposit under section 38 of the Act, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issue(s) to be Decided

Is the Landlord entitled to the relief sought?

Is the Tenant entitled to return of double the security deposit?

### Background and Evidence

This tenancy began on March 1, 2011, with the parties entering into a written, month to month tenancy agreement. The Tenant paid a security deposit of \$425.00 on March 1, 2011, and the monthly rent was \$850.00, payable on the first day of each month.

On or about June 15, 2011, the Tenant gave the first Agent for the Landlord verbal notice they were ending the tenancy.

Both parties acknowledge this was a short notice to end tenancy.

According to the testimony and submissions of the Tenant, on June 15, 2011, the first Agent for the Landlord told her she would receive the security deposit back if the rental unit was clean and ready for someone to move in on July 1, 2011.

According to the testimony of the second Agent for the Landlord, the first Agent for the Landlord told the Tenant that if the rental unit was re-rented for July 1, 2012, the Tenant would get her security deposit back.

The Tenant submitted in writing that on June 29, 2011, the first Agent for the Landlord informed her that she would not get the security deposit back as it was being applied towards July 2011, rent as the Tenant had not given the required notice to end tenancy under the Act. I note that under the written tenancy agreement, which complies with the Act, the Tenant was required to give at least one month notice to end tenancy.

The parties performed an outgoing condition inspection report on July 1, 2011. I note there was an incoming condition inspection report done as well.

The rental unit was not re-rented until August 1, 2011.

According to the evidence of both parties, shortly after the outgoing condition inspection report was done, the first Agent for the Landlord was in a very serious motor vehicle accident. The Tenant testified and submitted in writing that following this she gave up on getting the security deposit back.

Beginning in September of 2011, the Tenant began getting telephone calls from a collection agency regarding the outstanding rent due to the Landlord. There were confusing communications between the parties and the collection agency over the next few months.

On March 14, 2012, the Tenant sent an email to the Landlord with her forwarding address.

On March 23, 2012, the Landlord filed their Application, requesting rent for the month of July 2011, in the amount of \$850.00 and to keep the security deposit.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find the following.

I find the Landlord has established a claim for rent for July of 2011, in the amount of \$850.00.

Under the Act and tenancy agreement the Tenant was required to give the Landlord a written Notice to End Tenancy of at least one month, calculated from the day before rent is due. Therefore, if the Tenant wanted to end the tenancy on June 30, 2011, the latest the Tenant could have given the Landlord a notice to end tenancy was May 31, 2011, the day before the June rent was due. This would have given the Landlord the correct Notice to End Tenancy under the Act and tenancy agreement.

Therefore, I find the Landlord has established a claim of **\$900.00** against the Tenant comprised of \$850.00 in rent for July 2011, and the \$50.00 filing fee for the Application.

I dismiss the Tenant's claim for return of the security deposit.

Under section 38 of the Act, the Landlord had 15 days from the later of the end of the tenancy or receipt of the Tenant's forwarding address in writing, to either return the deposit or file a claim against it. The Landlord filed their claim within the required 15 days, and therefore, the Tenant is not entitled to double the security deposit.

Having found the Landlord has established a claim of \$900.00, I order the Landlord may retain the security deposit of \$425.00 in partial satisfaction of the claim, and I grant the Landlord a monetary order for the balance due of **\$475.00**. This order must be served on the Tenant and may be filed and enforced through the Provincial Court.

Lastly, I have enclosed a guidebook for the Tenant to use to become more familiar with the rights and obligations of renters and landlords under the Act.

### Conclusion

The Tenant's claim is dismissed. The Landlord has established a monetary claim.

I order the Landlord may retain the security deposit in partial satisfaction of the claim, and grant the Landlord a monetary order for the balance due.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: May 24, 2012.

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Residential Tenancy Branch