



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

**Dispute Codes:** MNSD, FF

### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the tenant for an order for the return of the security deposit, damages for loss of services and compensation under section 51(2) of the Act. The hearing was also convened to deal with the landlord's application seeking monetary compensation for the cost of utilities and repairs to the unit.

Despite having filed an application and being served with the Notice of the tenant's application, the landlord did not appear. Accordingly, the landlord's application was dismissed without leave and the hearing on the tenant's application proceeded.

### **Issue(s) to be Decided**

The issues to be determined are whether the tenant is entitled to the return of the security deposit, monetary compensation under section 51(2) of the Act and damages under section 67 of the Act.

### **Background and Evidence**

The tenant was seeking to receive a monetary order for the return of the security deposit paid at the start of the tenancy in the amount of \$625.00. However the tenant agreed to a deduction for utilities owed in the amount of \$122.77 leaving \$502.23.

The tenant testified that the tenancy began on March 2011. The rent was \$1,250.00 and a security deposit of \$625.00 was paid. The tenant testified that the tenancy ended on March 31, 2012 and the written forwarding address was provided to the landlord.

The tenant testified that the landlord failed to return the security deposit. The landlord's application seeking to keep the tenant's security deposit was made on April 13, 2012 within the required 15 days. The tenant is now seeking the return of the \$502.23 still owed from her deposit.

The tenant is also seeking compensation or the equivalent of two months rent, totaling \$2,500.00 based on the fact that the landlord had ended the tenancy by issuing a Two Month Notice to End Tenancy for Landlord's Use, but failed to utilize the premises for the purpose stated on the Notice. The evidence submitted indicated that the Two

Month Notice to End Tenancy for Landlord's Use was issued because the landlord or a close family member of the landlord intended to move into the unit. The tenant testified that, shortly after she had vacated, the landlord sold the building.

With respect to laundry services, the tenant testified that she was denied the use of the laundry facilities and is requesting compensation of \$120.00 for the costs incurred due to the landlord's termination of this service and facility.

### **Analysis**

In regard to the return of the security deposit, I find that section 38 of the Act states that within 15 days after the later of the day the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or make an application for dispute resolution claiming against the security deposit. In this instance, I find that the landlord did not refund the deposit but made an application within the 15 day deadline. The landlord's application was dismissed and therefore the tenant is entitled to have the deposit returned in the amount of \$502.23 as requested by the tenant.

In regard to the tenant's request for compensation because the landlord failed to use the rental unit for the purpose stated on the Notice issued to the tenant, I find that section 51(2) of the Act states that the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or the rental unit is not used for that stated purpose for at least 6 months.

In this instance the landlord's stated intent was that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member, (father, mother or child), of the landlord or the landlord's spouse.

I find that the landlord has failed to prove that the rental unit was being used precisely for the purpose stated and in fact the evidence submitted clearly shows that the rental unit was not used for a family member to occupy as the property was sold.

Given the above, I find that the tenant must be compensated \$2,500.00 under section 51(2) of the Act, representing the equivalent of two month's rent.

In regard to the restriction of laundry facilities, I find that section 27 of the Act states that a landlord may terminate or restrict a service or facility, if the service or facility is not essential to the tenant's use of the rental unit, provided that landlord(a) gives 30 days' written notice, in the approved form, and (b) reduces the rent in an amount that is

equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

I accept the tenant's undisputed testimony that the landlord violated the Act in this regard and grant her request for compensation of \$120.00 for the loss of facilities.

I find that the total amount of compensation to which the tenant is entitled is \$3,172.23 comprised of \$502.23 for the security deposit, \$2,500.00 compensation under section 51(2), \$120.00 compensation for loss of laundry and the \$50.00 paid for this application.

**Conclusion**

I hereby issue a monetary order to the tenant in the amount of \$3,172.23. This order must be served on the Respondent 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: June 06, 2012.

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Residential Tenancy Branch