



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, O

### Introduction

This hearing was convened by way of conference call in repose to the tenant's application for the return of the security deposit and to deal with other issues.

The tenant and landlord attended the conference call hearing, gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

- Is the tenant entitled to recover the security deposit?
- Is the tenant entitled to recover other sums the tenant claims is owed by the landlord?

### Background and Evidence

The parties agree that this fixed term tenancy started on November 01, 2011 and ended at the end of the fixed term on March 31, 2012. Rent for this unit was \$1,875.00 per month due on the first day of each month in advance. The tenant paid a security deposit of \$900.00 on November 01, 2012.

The tenant testifies that he gave the landlord his forwarding address in writing and has provided a copy of this letter which was posted on July 11, 2012. The tenant provided a Canada Post tracking number for this letter which was sent to the landlord on July 11, 2012 and therefore deemed to have been served five days after it was posted.

The tenant testifies that he did not give the landlord permission to keep all or part of the security deposit. The tenant states that he does not waive his right to claim double the security deposit as the landlord has not returned it within 15 days of receiving the tenants forwarding address in writing.

The tenant testifies that the tenancy agreement in place states that basic cable and internet are included in the rent. The tenant testifies that he had an agreement with the landlord that the tenant would settle any difference in the cable bill at the end of the tenancy for any extras he has included in this service. The tenant testifies that in January, 2012 the cable and internet were terminated and when the tenant contacted the cable company he was told the bill had not been paid by the landlord as the bills were in the landlord's name. The tenant testifies as he could not get hold of the landlord he had to pay the sum of \$113.00 to the cable company to have the cable and internet reconnected. The tenant has provided an e-mail from the company showing this payment was made. The tenant testifies he has not been given a copy of the cable bills to see what his share of these will be but is happy to settle with the landlord for an amount of \$300.00 which includes the amount the tenant paid to have the service restored.

The landlord testifies that the tenant was sent a cheque for \$900.00 in the middle of June, 2012. The landlord acknowledges that this cheque was sent by normal mail and acknowledges that she has no proof that the cheque was received by the tenant or sent by the landlord.

The landlord testifies that the cable bills went to the tenant's mailbox and were not forwarded to the landlord by the tenants. The landlord states she is also happy to settle on the sum of \$300.00 for the tenant's additional cable usage.

### Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on July 16, 2012, deemed served five days after posting. As a result, the landlord had until July 31, 2011 to return the tenants security deposit or file an application to keep it. I find the landlord did not return the security deposit and has not filed an application to keep it. Therefore, I find that the tenant has established a claim for the return of double the security deposit to the sum of **\$1,800.00** pursuant to section 38(6)(b) of the *Act*.

As the parties have agreed to the following deductions of **\$300.00** including the \$113.00 the tenant paid to have the cable service reconnected this sum will be deducted from the tenant's monetary claim. A Monetary Order has been issued to the tenant pursuant to s. 38(6)(b) of the *Act* for the sum of **\$1,500.00**

### Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,500.00**. The order must be served on

the respondent and is enforceable through the Provincial Court as an order of that Court.

Dated: December 20, 2012.

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Residential Tenancy Branch