



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for a return of his security deposit, doubled.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order, comprised of his security deposit doubled?

### Background and Evidence

The undisputed evidence shows that the tenancy started on July 1, 2011, ended on June 30, 2012, monthly rent was \$850.00 and the landlord was paid a security deposit of \$425.00.

There is no dispute that the applicant/tenant provided his written forwarding address to the landlord on August 13, 2012.

In support of his application, the applicant/tenant, CB, said that as he was a legal minor at the beginning of the tenancy, his father, GB, signed the tenancy agreement, being listed as tenant.

The applicant/tenant said that although he agreed to deductions by the landlord from the security deposit at the move out inspection on June 30, 2012, and as noted on the inspection report, he has since gained familiarity with the Residential Tenancy Act, contending that he did not have authority to agree to the deductions as he was a minor at the start of the tenancy and that GB was listed as the tenant.

The applicant/tenant, CB, said that although the landlord did send a cheque for the balance of the security deposit, less the agreed upon deductions, within a week of receiving the applicant/tenant's forwarding address, he had no such authority to agree to the deductions due to his age.

The tenant listed on the tenancy agreement, GB, the applicant/tenant's father confirmed that he never lived in the rental unit and did not pay the monthly rent.

The landlord, in response, contended that at the move out inspection, the applicant/tenant indicated he had no time to clean the rental unit and as such, the landlord's cleaning contractor negotiated a lower than usual rate with the tenant, \$185.00 in total. The applicant/tenant signed the agreement saying this amount could be deducted from the security deposit.

The landlord said that the tenant at the inspection and on the inspection report, for \$50.00 for drape cleaning, \$65.00 for carpet shampooing and \$70.00 for counters.

The landlord submitted that CB indicated he requested to pick up the cheque for the remainder of the security deposit, leaving only his telephone number. The landlord submitted that they called CB multiple times, starting July 15, 2012, leaving messages that the cheque was ready, with no response.

The landlord submitted that CB came to the landlord's office on August 13, 2012, demanding a full refund as he was underage. CB provided his written forwarding address on August 13, 2012, and within a week, the landlord sent to the tenant a cheque in the amount of \$240.00, which was the security deposit amount of \$425.00 less \$185.00.

The landlord's relevant evidence included the inspection report signed by the tenant agreeing to \$185.00 in deductions, the tenancy agreement, and the security deposit statement.

The tenant agreed that he had received that cheque, but that he threw it away.

### Analysis

Based upon the relevant evidence and a balance of probabilities, I find as follows:

Section 3 of the Act states that a person who has not reached 19 years of age may enter into a tenancy agreement or a service agreement, and the agreement and this Act and the regulations are enforceable by and against the person despite section 19 of the *Infants Act*.

I accept that despite the applicant having the legal capacity to enter into the tenancy agreement, the applicant's father listed on the tenancy agreement as the tenant signed the document as a guarantor for his son. In the totality of the circumstances before me, however, I find the applicant, CB, was the actual tenant for this tenancy as he was the sole occupant of the rental unit and paid the monthly rent.

Therefore I find the tenant carried the rights and obligations of a tenant under the Act. As such, I find that the tenant provided authority as the tenant to the landlord to make deductions from the security deposit.

Section 38(1) of the Act stipulates that if within 15 days after the later of: 1) the date the tenancy ends, and 2) the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit, to the tenant with interest or make application for dispute resolution claiming against the security deposit. 38(4) allows the landlord to retain from the security deposit an amount that the tenant agrees in writing the landlord may retain, prior to returning the balance.

I find the landlord submitted sufficient evidence that they were authorized by the tenant to deduct \$185.00 from the security deposit and that the remaining security deposit was mailed to the tenant within a week of being supplied the tenant's written forwarding address.

I therefore find that the landlord has complied with section 38 of the Act and as such, I dismiss the tenant's application for a monetary order comprised of his security deposit, doubled.

Conclusion

The tenant's application is dismissed, without leave to reapply.

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* and is being mailed to both the applicant and the respondent.

Dated: December 17, 2012.

---

Residential Tenancy Branch