



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with an application by the tenant for double recovery of the security deposit. Both the tenant and the landlord participated in the teleconference hearing.

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 testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

Is the tenant entitled to double recovery of the security deposit?

### Background and Evidence

The tenancy began on September 1, 2012. At the outset of the tenancy, the tenant paid a security deposit of \$325. The landlord did not carry out a joint move-in inspection or complete a condition inspection report with the tenant at the outset of the tenancy. The tenancy ended on October 15, 2012. The tenant provided the landlord with her written forwarding address on October 23, 2012. The landlord has not returned the security deposit or applied for dispute resolution.

The landlord stated that the landlord and the tenant agreed by text that the landlord could retain \$125 of the security deposit for damages. The landlord stated that he informed the tenant that he was retaining the remainder of the deposit because of smoke damage to the unit. The landlord stated that he did not send the tenant's security deposit to the forwarding address that was provided by the tenant because the address she provided was that of a friend of the landlord, and the friend stated that the tenant

did not have that person's permission to use her address as the tenant's forwarding address.

In support of this claim, the landlord submitted copies of several text messages between the landlord and the tenant. The landlord's evidence shows that the landlord and the tenant discussed via text the landlord withholding part of the security deposit, but they do not show any clear agreement from the tenant that the landlord may withhold \$125 of the security deposit or any other specific amount.

The tenant's response was that she did not give the landlord written permission to retain any specific amount of the security deposit. The only damage the tenant agreed to was damage to the door frame, and the tenant will pay for that when the landlord shows the tenant the receipt for that repair. The tenant further stated that the written forwarding address she provided was her employer's address.

### Analysis

Section 38 of the Residential Tenancy Act requires that 15 days after the later of the end of tenancy and the tenant providing the landlord with a written forwarding address, the landlord must repay the security deposit or make an application for dispute resolution. If the landlord fails to do so, then the tenant is entitled to recovery of double the base amount of the security deposit.

In this case, the tenancy ended on October 15, 2012, and the tenant provided a forwarding address in writing on October 23, 2012. The landlord received another address for service in the tenant's application for dispute resolution, in late January or early February 2013. However, the landlord did not return any portion of the security deposit or make an application for dispute resolution to keep the deposit. I find that the tenant did not agree in writing that the landlord could retain any portion of the security deposit. I therefore find that the tenant has established a claim for double recovery of the security deposit, in the amount of \$650.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$650. This order may be filed in the Small Claims Court 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: May 3, 2013

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Residential Tenancy Branch

