



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit and the details section of the application claims recovery of a half month's rent and April's rent.

The tenant and both landlords attended the conference call hearing, and during the course of the hearing the landlords advised that both landlords entered into the tenancy agreement with the tenant, and the Tenant's Application for Dispute Resolution is amended to include both landlords. The tenant and one of the landlords gave affirmed testimony and the parties provided evidentiary material prior to the commencement of the hearing. The parties were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for return of all or part or double the amount of the pet damage deposit or security deposit?

Has the tenant established a monetary claim as against the landlords for recovery of any rent?

### Background and Evidence

The tenant testified that this month-to-month tenancy began on March 15, 2013 and ended on March 18, 2013. Rent in the amount of \$900.00 per month was payable in advance on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$450.00 which is still held

in trust by the landlords, and no pet damage deposit was collected. No move-in or move-out condition inspection reports were completed. The tenant also testified that the tenant has not provided a forwarding address in writing to the landlords.

The tenant further testified that the rental unit was for sale and the tenant never stayed overnight at all. The tenant's father was ill and the tenant needed to stay with the tenant's mother during that trying time.

The tenant further testified that the landlord received half a month's rent from the Ministry of Social Services as well as the security deposit. Further, the half month's rent was paid in cash and the landlord did not give a receipt. The tenant provided a copy of a cheque stub which appears to be from the Ministry for \$450.00 and it's marked "Half Mo Rent."

The tenant also provided 2 Cheque History documents both printed March 22, 2013. The first shows 2 payments, one to the tenant in the amount of \$450.00 and the other payable to the landlord for \$450.00. The tenant has written on the print-out that the payment to the tenant was for half a month's rent and the other was the security deposit. The other Cheque History document shows the April rent payment of \$900.00.

The tenant told the landlord over the telephone that the tenant was moving and the landlord stated that the tenant would have to pay April's rent. The tenant had already left the keys in the rental unit and had moved all belongings out. The tenant thought the landlords would be sympathetic, but weren't so the tenant told the landlords that the tenant would stay for the month of April, but the landlord responded that if the tenant went back, the tenant would be trespassing and the landlords would not allow the tenant on the property.

The tenant claims recovery of all the rent paid to the landlords, being \$1,350.00 as well as the \$450.00 security deposit.

The landlord testified that the tenant was interested in the rental unit and signed the tenancy agreement knowing that it was for sale. The tenancy agreement also contains an addendum allowing the tenant to pay the security deposit in installments, which is discussed in emails, copies of which were provided for this hearing. At the outset of the tenancy, the parties negotiated the rent from \$1,100.00 per month to \$900.00 per month, which the landlords agreed to for the inconvenience of having the rental unit listed for sale.

The tenant did not pay the security deposit, nor did the Ministry. The tenant completely ignored the landlords' requests for payment of the security deposit. The landlords attended at the Ministry who said they would not get involved. The landlord has also provided a copy of a receipt issued to the tenant dated March 14, 2013 in the amount of \$450.00 which is also marked "Half a Month's Rent." The landlord testified that the tenant's testimony stating that no receipt was issued for the cash payment is purely fabricated.

The landlords also provided copies of emails exchanged between the parties, which includes a string dated March 13, 2013 from the tenant stating that the Ministry advised they will not issue a security deposit because the tenant had 3 outstanding and unless the tenant was successful getting back a security deposit from the previous rental, the tenant did not have the money. Further, the tenant indicated that since the tenant left the previous rental unit on short notice, the tenant didn't expect to get the security deposit back. The tenant offered to pay the security deposit in installments of \$100.00 on March 20, 2013 and the balance at \$100.00 per month till paid.

Another email from the tenant dated March 15, 2013 states that the tenant's dad passed away last year. About an hour later, the tenant sent the landlords another email saying that the Ministry is asking for the rent back. It also states that the keys are in between the front door and screen door, and that the tenant's mom has dementia and needs the tenant to stay with her.

The landlord further testified that the tenant gave notice to end the tenancy on March 15, 2013 by email.

The landlord argues that the tenant's evidence and testimony is totally fabricated.

### Analysis

I have reviewed the tenancy agreement and the documentary evidence provided by the parties. It's clear that the tenant has not been totally honest, having testified that the tenant went to live with the tenant's mother because the tenant's father was ill, but telling the landlord in an email that the tenant's father passed away last year. Also, the tenant testified that the landlord did not issue a receipt for the half month of rent paid at the beginning of the tenancy, but the landlord has provided a copy of that receipt.

Further, the tenancy agreement states that the tenancy began on March 15, 2013 and that rent is payable on the 1<sup>st</sup> day of each month. The tenant paid half a month's rent for March, 2013 and would, by law, be required to give notice to vacate the rental unit which must be signed and dated, give the address of the rental unit and state the

effective date of the notice. The *Residential Tenancy Act* requires a tenant to give a full month's notice to end a tenancy before the date that rent is due under the tenancy agreement. I find that the tenant failed to do so, and therefore, the tenant is not entitled to recover any rent.

With respect to the security deposit, I am not satisfied that the tenant has established that the security deposit was ever paid to the landlords. The Cheque History print-out shows that \$450.00 was given to the tenant and \$450.00 was sent to the landlord, and I find that the amount given to the landlord was for half a month's rent, for the partial month of March, 2013. The landlords have disputed the tenant's claim, and the onus is on the tenant to prove the amounts. I am not satisfied that the tenant has proven the claim, and the application is dismissed.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety 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*.

Dated: June 18, 2013

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Residential Tenancy Branch