



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Meicor Realty Management Services Inc.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent and witness.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on May 21, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5<sup>th</sup> day after it was mailed.

However, the landlord testified that after checking the Canada Post web site to track the delivery she learned that the documents were successfully delivered to the respondent tenant on July 22, 2013

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant Section 71 to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on March 1, 2011 for a month to month tenancy beginning on March 1, 2011 for a monthly rent of \$750.00 due on the 1<sup>st</sup> of each month with a security deposit of \$375.00 and a pet damage deposit of \$375.00 paid on February 28, 2011.

The landlord submitted into evidence a copy of a move out Condition Inspection Report completed on January 30, 2013 the date the tenancy ended and a document entitled "Return of Security Deposit" completed by the landlord and signed by the tenant's agent. The "Return of Security Deposit" document shows an agreement on the part of the tenant's agent that the landlord could retain \$706.85 from the security deposit.

The tenant's agent attending the hearing at the request of the landlord confirmed that she had attended the condition inspection and had signed that above noted documents on behalf of the tenant.

The landlord testified that they had returned the balance of the deposit, in the amount of \$43.15, to the tenant and when she received she felt she should have had more returned to her so she filed an Application for Dispute Resolution seeking return of the deposit. That hearing was held on May 8, 2013.

The arbitrator in that case determined that the tenant had not provided the landlord with her forwarding address in writing and so dismiss the tenant's Applications as premature.

The arbitrator, despite indicating that had made no findings with regard to the landlord's submission that the tenant had signed over the majority of the deposits, found that the landlord "must either return the deposit or make an application seeking to retain the deposit."

As such, the landlord felt she was required to file an Application to retain the deposits that the tenant had already signed over to the landlord by way of her agent.

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security and pet damage deposits or file an Application for Dispute Resolution to claim against them. Section 38(4) stipulates that the landlord may retain an amount from a security deposit and pet damage deposit if at the end of the tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant.

As the landlord has provided documents confirming the tenant's agent signed over an amount of \$706.85 from the \$750.00 held in deposits; the tenant's agent attended the hearing and confirmed that she had agreed to these deductions; and since this evidence and testimony is undisputed I find the landlord is entitled to retain \$706.85 from the deposits.

I accept the landlord's undisputed testimony that she did provide the tenant with \$43.15 representing the balance of the deposits. As such, I find the matters related to the security deposit and pet damage deposit have been settled in accordance with Section 38(4).

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 22, 2013

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Residential Tenancy Branch

