



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDC, MNSD, OLC, PSF, FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation in the amount of \$2,700.00 which included the return of double the security deposit. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Did the tenant suffer a monetary loss and inconvenience due to the actions of the landlord? Is the tenant entitled to the return of double the security deposit?

### **Background and Evidence**

The parties entered into a tenancy agreement on July 29, 2013 for a tenancy that would start on August 01, 2013. The landlord agreed to allow the tenant to store her belongings in a cabin located on the property for \$50.00 per month. The rent was \$900.00 but the landlord reduced it to \$800.00 for the first two months. The tenant paid a security deposit of \$450.00 plus \$50.00 for storage of her items and proceeded to store her belongings in the cabin.

The rental unit was being renovated at the time the tenancy agreement was entered into. On August 01, 2013, the parties entered into a second tenancy agreement to replace the first one. The start date of the tenancy was amended to September 01, 2013 to allow for more time to complete the renovations.

In his written submission, the landlord stated that despite advising the tenant not to access the rental unit while renovations were in progress, the tenant did so on August 01 and started making demands for changes. On August 02, 2013, the landlord informed the tenant that he had decided to terminate the tenancy and would return the full deposit once all items were removed from the cabin. The landlord returned \$150.00 to the tenant.

The tenant proceeded to remove her belongings. On August 09, all the tenant's belongings were removed from the cabin. The tenant sent a letter dated August 09, 2013, to the landlord requesting the return of the security deposit and provided a forwarding address. The landlord stated that he received this letter in the same envelope as a second letter dated August 20, 2013, sent by registered mail. The landlord contacted the tenant on August 27, 2013 and offered to return the funds held by him to the hospital that she had named as her forwarding address. The tenant informed him that it was too late and that she had already applied for dispute resolution.

The tenant is claiming the return of double the balance of the deposit paid. The tenant is also claiming \$500.00 for lost wages for the times spent meeting the landlord and for the time spent to attend this hearing. The tenant did not file any documentary evidence to support this portion of her claim. The tenant has also applied for \$250.00 for the cost of storage of her belongings and \$300.00 for accommodation for the first half of August.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay or make an application within 15 days, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant the security deposit.

In this case, I find that the landlord received the forwarding address of the tenant by registered mail sent August 20, 2013. On August 27, 2013, the tenant informed the landlord that she had already filed an application for dispute resolution.

Based on the testimony and documentary evidence of both parties, I find that the tenant provided a forwarding address to the landlord no earlier than August 20, 2013 and did not give the landlord 15 days to return the deposit, prior to applying for the return of double the deposit. Therefore I find that the tenant is not entitled to the return of double the security deposit. However, the tenant is entitled to the return of the base amount.

The tenant has applied for \$500.00 for lost wages for time spent dealing with the landlord for the return of the security deposit. The tenant had to provide her forwarding address in writing and wait for 15 days before filing an application. The tenant need not have met with the landlord or taken time off work to deal with the return of the security deposit. The tenant also claimed lost wages for the time spent participating in the hearing. The legislation does not permit me to award any litigation related costs other than the filing fee. Accordingly the tenant's claim for lost wages is dismissed.

The tenant has applied for the cost of storage and accommodation for the first two weeks of August. The tenant signed a tenancy agreement acknowledging that the tenancy would start on September 01, 2013. Therefore I do not find the landlord responsible for the cost of storage or temporary accommodation prior to the start date of the tenancy. Accordingly the tenant's claim for these items is dismissed.

However, I also find that the landlord entered into the tenancy agreement on July 29, 2013 for a tenancy starting on August 01, 2013. On August 01, the landlord amended the agreement for the tenancy to start on September 01. The very next day on August 02, the landlord cancelled the agreement, after having accepted a security deposit from the tenant. Even though the tenant did not dispute the termination of the tenancy, I find that this cancellation did cause the tenant some inconvenience.

*Residential Tenancy Policy Guideline #16* states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. Based on the above I find it appropriate to grant the tenant a nominal award of \$100.00 for the inconvenience suffered by her. The tenant has not proven the bulk of her application and therefore must bear the cost of filing this application.

Overall the tenant has established a claim for \$350.00 for the return of the deposit plus \$100.00 for the inconvenience endured by her due to the untimely cancellation of the tenancy agreement. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for \$450.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the tenant a monetary order in the amount of **\$450.00**.

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: December 04, 2013

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Residential Tenancy Branch