



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security deposit.

One of the tenants and landlord attended the conference call hearing and gave sworn testimony. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

Are the tenants entitled to a Monetary Order to recover double the security deposit?

### Background and Evidence

The parties agree that this month to month tenancy started on November 01, 2012. Rent for this unit was \$575.00 per month and was due on the 1<sup>st</sup> of each month. The parties agree that the tenant paid a security deposit of \$580.00 on November 01, 2012. The tenancy ended on November 01, 2013 with proper notice.

The tenant testifies that she gave the Landlord notice to end the tenancy and provided a forwarding address in writing on November 01, 2013 upon vacating the unit. The tenant

testifies that the unit was left clean and the tenants did not give the landlord permission to keep all or part of the security deposit. The tenant testifies that the landlord sent the tenant a cheque for \$225.00 on November 06, 2013. However this cheque has not been cashed as the landlord has spelt the tenant's name wrong and it was not for the full amount of the security deposit. The tenants seek to recover double the security deposit.

The tenant agrees at the hearing that the landlord may deduct \$50.00 from the tenants' monetary award for some minor cleaning issues. The tenant also agrees that the tenants will return the cheque for \$225.00 to the landlord after this hearing today.

The landlord testifies that he had recorded in his deposit book that the tenant had paid \$275.00 for a security deposit. The landlord now agrees that may have been in error and the deposit was likely to have been \$280.00. The landlord testifies that he deducted \$50.00 for some cleaning that the tenant had failed to do and then issued a cheque for the balance of \$225.00. The landlord testifies that after he received the tenants notice for this hearing he realized the tenant had not cashed the cheque as her name was spelt wrong.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to Section 38(1) of the *Act* that says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on November 01, 2013. As a result, the landlord

had until November 16, 2013 to return all the tenants' security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return all the security deposit and has not filed an application for Dispute Resolution to keep all or part of the deposit. Therefore, I find that the tenants have established a claim for the return of double the security deposit of \$560.00 pursuant to section 38(6)(b) of the *Act*.

During the hearing the tenant agreed the landlord could deduct \$50.00 from the security deposit for minor cleaning. This amount has therefore been deducted from the tenants' monetary award.

### Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$510.00**. The Order must be served on the respondent. Should the respondent fail to comply with the Order the Order may be enforced through the Provincial Court as an order of that Court.

The tenant must return the previous cheque for \$225.00 to the landlord.

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: March 11, 2014

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Residential Tenancy Branch

