



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GLASS MANOR MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **Decision**

### **Dispute Codes:**

MNSD, MNDC, FF

### **Introduction**

This Dispute Resolution hearing was set to deal with an Application by to deal with the tenant's claim for the return of the security deposit.

The applicant was present and participated in the hearing. Despite being served with the Notice of Hearing documents in person on January 13, 2014, the respondent did not appear and the hearing was therefore conducted in the respondent's absence.

### **Issue(s) to be Decided**

Is the tenant entitled to the return of the security deposit?

### **Background**

The tenancy began as a one-year fixed term tenancy on March 1, 2013 with rent of \$1,275.00. A security deposit of \$637.50 was paid.

Evidence was submitted including a copy of the tenancy agreement, copies of communications, written testimony from the parties and a copy of a document titled, "*Apartment Check Out Report*", which was signed only by the tenant.

Also in evidence was a letter from the tenant with the forwarding address requesting the return of the security deposit dated November 13, 2013, that was mailed to the landlord.

The tenant testified that the landlord did not refund the full deposit and merely sent a cheque for \$137.50, and that the landlord retained \$500.00.

The tenant stated, although they signed the "Check Out Report", the landlord did not have the tenant's written permission to retain any portion of the security deposit.

At the bottom of the Check Out Report was the following pre-typed statement:

*“listed below are items charged to the tenant under the security deposit”*

The landlord indicated that \$500.00 was owed because the tenant, *“DID NOT FULFILL LEASE AGREEMENT”*

(Reproduced as written)

A paragraph below that section states:

*“I/we agree to the total deduction of \$\_\_\_\_\_ as indicated above and authorize the landlord to deduct the charges from my/our security deposit....”*

The tenant's position is they never agreed to allow the landlord to keep any part of the deposit and that the full security deposit should be returned. The tenant pointed out that the landlord managed to find a replacement tenant to move in on the following day.

### **Analysis:**

With respect to the return of the security deposit, I find that section 38 of the Act is clear on this issue. Within 15 days after the later of the day the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit to the tenant or apply for dispute resolution claiming against the security deposit.

I find that the tenant provided the landlord with the written forwarding address on the final day of the tenancy and again in a letter dated November 13, 2014.

Section 38 of the Act states:

*A landlord may retain an amount from a security deposit if,*

*(a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or*

*(b) after the end of the tenancy, the director orders that the landlord may retain the amount. (my emphasis)*

I find the tenant's signature on the *“Check Out Report”*, upon which the landlord has apparently relied, does not qualify as valid consent from the tenant, primarily because there was no amount shown in the space provided for the dollar amount within the signature paragraph.

For the reasons above, I find that the landlord did not have valid authority under the Act to retain any portion of the \$637.50 security deposit, despite the fact that the tenant signed the check-out report presented by the landlord.

Accordingly, I find the tenant did not give the landlord valid written permission to keep the deposit, nor did the landlord make application for an order to keep the deposits.

Section 38(6) provides that, if a landlord does not comply with the Act by refunding the deposit or by making application to retain it within 15 days of the end of the tenancy and receipt of the forwarding address, the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

I find that the tenant's security deposit was \$637.50. Because the landlord only refunded a portion of the deposit in the amount of \$137.50 within the required 15 days, retaining \$500.00 beyond the 15-day deadline, I find that the landlord failed to follow the Act. I find that the tenant is therefore entitled to compensation of double the portion of the deposit still being held amounting to \$1,000.00.

Based on the evidence I find that the tenant is entitled to total compensation of \$1,000.00 comprised of a refund of double the remaining \$500.00 security deposit.

I hereby issue a monetary order to the tenant for \$1,000.00. This order must be served on the landlord in accordance with the Act and, if necessary, can be enforced through Small Claims Court.

### **Conclusion**

The tenant is granted a monetary order for the return of double the security damage deposit still being held by 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: April 29, 2014

---

Residential Tenancy Branch

