



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNSD, FF

### Introduction

This hearing dealt with an application by the tenant for a monetary order for the return of her security deposit.

Both the landlords and tenant attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for the return of her security deposit?

### Background and Evidence

The parties entered into a tenancy agreement on March 3, 2012 whereby the tenant was obligated to pay \$850.00 rent monthly in advance on the first day of the month. The tenant also paid a security deposit of \$425.00.

The tenancy ended in November 2013. The tenant gave evidence that she handed in her keys and provided her forwarding address to the landlord on November 27 or 28, 2013. She gave her forwarding address to the landlord verbally and the landlord wrote it down.

The tenant gave evidence that the landlord did not offer her the opportunity to conduct a move-out inspection. The tenant's evidence is that the landlord refused to do a move-out inspection at the time the tenant handed in her keys, since the other landlord was at work.

The tenant gave evidence that she received a note from the landlords in the mail around December 16 or 17, 2013 with a cheque for \$225.00. The note indicates the landlords retained \$200.00 from the security deposit as compensation for damage to two walls and the window trim. The tenant gave evidence that she did not consent to any deduction from her security deposit.

The landlords gave evidence that they had to repair the walls after the tenancy, and spent \$29.99 plus tax on paint as well as about six hours labour. The landlords' evidence is that the oven was left dirty.

The tenant's evidence is that she tried to clean the oven but did not know how to remove the bottom rack so was unable to clean the bottom portion. The tenant's position is that \$120.00 would be a reasonable deduction for the damage to the walls and dirty oven.

### Analysis

The process for the return of security deposits is set out in Section 38 of the Act. Pursuant to Section 38(1), the landlord must either repay the security deposit or apply for dispute resolution to make a claim against the security deposit within 15 days of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing (whichever is later). Alternatively, pursuant to Section 38(4)(a), a landlord may retain all or part of a security deposit if the tenant agrees in writing.

In this case, I find the tenancy ended on November 30, 2013. The landlord did not apply for dispute resolution to make a claim against the security deposit within 15 days. Also, the tenant did not agree in writing to the retention of any part of the security deposit. The landlord is therefore obligated to return the entire security deposit to the tenant.

According to Section 38(6), a landlord who fails to follow Section 38(1) must pay the tenant double the amount of the security deposit. In this case, that amount is \$850.00.

The tenant has already received \$225.00 back from the landlord. The tenant has also agreed that a \$120.00 deduction from her security deposit is reasonable in the circumstances. The balance owing is therefore \$505.00. The tenant is also entitled to recover her RTB filing fee of \$50.00 from the landlord.

I grant the tenant an order under Section 67 for \$555.00. This order may be filed in Small Claims Court and enforced as an order of that Court.

### Conclusion

I grant the tenant a monetary order for \$555.00.

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: May 05, 2014

