



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNSD, FF

### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the tenant seeking an order for the return of the security deposit retained by the landlord and costs of filing including postage and photo processing.

Despite being served by registered mail sent on April 4, 2014, as confirmed by the Canada Post tracking number, the respondent landlord did not appear.

At the start of the hearing there were some technical problems that required the participants to re-dial into the conference call using a different code number. This caused a delay in commencing the hearing.

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

Is the tenant entitled to the return of the security deposit under section 38 of the Act?

### **Background and Evidence**

The tenancy began in July 2012. The rent was \$650.00 per month and a security deposit of \$325.00 was paid. Copies of receipts and a copy of the tenant's letter to the landlord containing her written forwarding address and request for the return of the security deposit were in evidence. The tenancy ended on January 21, 2014.

The tenant testified that she provided the landlord with her written forwarding address on January 21, 2014. The tenant testified that the landlord failed to return the deposit within 15 days after the tenancy ended and the written forwarding address given.

### **Analysis**

Section 38 of the Act provides that a security deposit or pet damage deposit must be refunded to the tenant within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

In the alternative, if the landlord wants to retain the deposit to satisfy a debt or damages, the Act requires that the landlord make a claim against a security deposit by

filing an application for Dispute Resolution within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

I accept the tenant's testimony verifying that the written forwarding address was sent in January 2014. I find that the security deposit was not returned within 15-days.

Based on the evidence and the testimony, I find that at the end of the tenancy the tenant did not give the landlord written permission to keep the deposit, nor did the landlord subsequently make an application seeking an order to keep the deposit within the 15-day deadline to do so.

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

In the matter before me, I find that under section 38, this tenant is entitled to be paid double the security deposit of \$325.00 that was wrongfully retained by the landlord, in the amount of \$650.00.

In regard to the tenant's claim for reimbursement of costs for preparing the application, such as postage and photos, I find that, with the exception of the cost of the application, the tenant's claims for reimbursement of photos or other costs for preparing for the Dispute Resolution Hearing, are not compensable expenditures covered under any provision of the Act and must therefore be dismissed. I do find that the tenant is entitled to be reimbursed the \$50.00 cost of the application as provided in Section 72 of the Act.

I hereby issue a monetary order for \$700.00 in favour of the tenant. This order must be served on the Respondent and if unpaid may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### **Conclusion**

The tenant is successful in her application and is awarded a monetary order for a refund of double the security deposit.

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: July 17, 2014

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Residential Tenancy Branch

