



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing convened as a result of the Tenant's Application for Dispute Resolution in which she sought a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement as well as return of all of her security deposit.

The Tenant and the Landlord's agent, R.M., appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

Is the Tenant entitled to return of her security deposit?

### Background and Evidence

R.M. testified that the Tenant did not pay a security deposit at the commencement of her tenancy. The current Landlord purchased the property in 2008 and at that time they had their accountant review the previous Landlord's records, reconcile the trust funds, and upon review of the records confirmed that there was no record of the security deposit being paid by the Tenant.

Submitted in evidence was a copy of the Asset Purchase Agreement as well as an attachment to that agreement which listed all the security deposits held in trust at the

time of the purchase. This document confirms the Tenant did not have a security deposit in trust at the time of the purchase.

Also submitted in evidence was a copy of the move out Condition Inspection Report which again indicates no security deposit was held in trust. The Tenant signed off on this document confirming her agreement.

The Tenant testified that she provided a security deposit when moving into the rental building in August of 1997. Introduced in evidence was a letter from the Tenant wherein she wrote that she sought return of the security deposit in the amount of "\$495.00 plus interest for 18 years". The Tenant also introduced in evidence a money order from the Royal Bank of Canada dated August 1, 1997 and in the amount of \$339.00.

The Tenant further testified that she paid \$339.00 on August 1, 1997, \$339.00 on August 29, 1997 and \$339.00 on September 9, 1997. At the November 4, 2014 hearing, she testified that she had only just found the latter two cheques or receipt of payment but that in any case they were evidence of her payment of the security deposit. The August 29, 1997 and September 9, 1997 cheques/receipts were not introduced in evidence.

I adjourned the November 4, 2014 hearing to permit the Tenant to submit these cheques in evidence and deliver them to the Landlord as I found they may be relevant to the determination of the issue before me. I also permitted both parties to submit and deliver further evidence on the issue of the security deposit.

On November 7, 2014 the Tenant submitted to the branch a copy of a money order dated September 12, 1997 in the amount of \$300.00 as well as a copy of a money order dated August 29, 1997 in the amount of \$339.00.

At the continuation of the hearing, the Tenant confirmed she had not provided copies of these money orders to the Landlord. R.M. also confirmed that they had not been received by the Landlord.

### Analysis

*Residential Tenancy Branch Rules of Procedure* Rule 3.12 provides that an Arbitrator may refuse to accept evidence if the Arbitrator determines that there has been a willful or recurring failure to comply with the Act, Rules of Procedure or Order made through the dispute resolution process, or if, for some other reason, the acceptance of the

evidence would prejudice the other party or result in a breach of the principles of natural justice.

On November 5, 2014 I ordered that both parties provide their evidence to the other party, and the Branch, as soon as possible, but in any event no later than 14 days prior to the continuation date. The Tenant failed to provide the Landlord with copies of the money orders from August and September 1997. I find that to accept this evidence would prejudice the Landlord and offend the principles of natural justice; accordingly I decline to consider these two money orders.

Further, the Tenant, in her application for dispute resolution, sought the sum of \$495.00 which is inconsistent with the amounts of the money orders purportedly written at the time.

Finally, I accept R.M.'s testimony and the Landlords' evidence which indicates no security deposit was held in trust for the Tenant.

The Tenant is the party with the burden of proof and has not met the onus to prove her claim and as such the claim fails.

### Conclusion

The Tenant failed to prove her claim and her application is dismissed.

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 13, 2014

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Residential Tenancy Branch

