



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, O

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of double the amount of her security deposit, pursuant to section 38; and
- other unspecified remedies.

The tenant's agent CP, the landlord and the landlord's agent MN, attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses.

The tenant's agent confirmed that she had authority to speak on behalf of the tenant, her daughter, who has mental health issues and is currently hospitalized. The tenant's agent confirmed that when the tenant appeared to file her application at the Residential Tenancy Branch ("RTB") office in person, the tenant's agent was with her and the tenant gave verbal permission for her agent to represent her for the application and at this hearing. The tenant's agent signed the tenant's application on the tenant's behalf. The landlord's agent confirmed that he had authority to speak on behalf of the landlord, his mother, as well as provide English language translation services for the landlord at this hearing. The landlord did not provide any testimony at this hearing, only the landlord's agent spoke at the hearing.

The tenant's agent testified that the landlord was served with the tenant's application for dispute resolution hearing package ("Application") on January 9, 2015, by way of registered mail. The landlord's agent confirmed receipt of the tenant's Application on behalf of the landlord. In accordance with sections 89 and 90 of the Act, I find that the landlord was duly served with the tenant's Application.

### Preliminary Issues – Amendment of Tenant’s Application and Clarification of Relief Sought

The landlord’s agent confirmed that he was the main contact person and agent during this tenancy but that the landlord was the person that established the tenancy. The tenant’s agent agreed that the landlord’s agent was a contact person and that rent during the tenancy was payable to the landlord named in this Application. The tenant’s agent confirmed that she mistakenly indicated the first names of both the landlord and her agent in the tenant’s Application, when the landlord was the correct respondent to name in the Application. I advised both parties during the hearing that I was amending the tenant’s Application, pursuant to section 64(3)(c) of the *Act*, to include only the name of the landlord as a respondent in the Application, not her agent. The style of cause on the front page of this decision now correctly reflects this amendment.

During the hearing, the tenant’s agent confirmed that the tenant’s Application for “other” relief was the same application for a monetary order for damage and loss for having to clean up a mouse infestation.

### Issues to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the tenant entitled to a monetary award equivalent to double the value of her security deposit as a result of the landlord’s failure to comply with the provisions of section 38 of the *Act*?

### Background and Evidence

Both parties agreed that this tenancy began around February or March 2013 and ended in February or March 2014. Monthly rent in the amount of \$650.00 was payable on the first day of each month. The tenant’s rent was fully subsidized and paid by government ministries. Both parties agreed that a security deposit of \$325.00 was paid by social assistance on behalf of the tenant and the landlord returned \$180.00 of this deposit to the tenant, while retaining \$145.00. The tenant’s agent confirmed that the tenant has been repaying the security deposit amount back to social assistance. Both parties could not recall whether a written tenancy agreement was signed, but both parties confirmed that an “intent to rent” form was completed for this tenancy. The landlord’s agent testified that move-in and move-out condition inspections occurred but no reports were completed. The landlord’s agent testified that the landlord did not have written

permission from the tenant to retain any amount from the security deposit. The landlord's agent confirmed that the landlord did not make any applications for dispute resolution to retain any amounts from the tenant's security deposit.

The tenant's agent testified that she personally provided a forwarding address in writing on behalf of the tenant on three separate occasions. The first occasion was sometime between April and June 2014, when a handwritten letter with the tenant's written forwarding address, was provided to the landlord's agent's brother in person. The landlord's agent acknowledged that he was advised about a letter received by his brother relating to a damage deposit issue with the tenant but that he could not recall whether any mention was made of a written forwarding address. The second occasion was around September 2014, when a handwritten letter with the tenant's written forwarding address was left in the landlord's mailbox. The third occasion was around November 2014, when a typed letter with a written forwarding address was left in the landlord's mailbox. The landlord's agent stated that any mail left in the landlord's mailbox may have been discarded as junk mail but that he does not recall receiving any letters with the tenant's forwarding address. The landlord's agent confirmed that the only address for service provided by the landlord to the tenant, was the address used by the tenant's agent to deliver these letters and the address used to serve the tenant's Application for this hearing.

The tenant seeks the return of double the amount of her security deposit of \$325.00, totalling \$650.00. The tenant's agent indicated that pursuant to section 38 of the *Act*, the landlord did not return the security deposit in full or make an application within 15 days of the end of this tenancy and providing a forwarding address in writing.

The tenant also seeks \$55.00 for cleaning that the tenant's agent personally performed at the rental unit after a mouse infestation. The tenant's agent indicated that the above amount includes supplies, postage, as well as gas, parking and travel costs, for dealing with this mouse infestation.

The landlord's agent indicated that the landlord retained \$145.00 from the tenant's security deposit for damage to the rental unit. The landlord's agent indicated \$75.00 was for floor damage and replacement, \$25.00 was to replace a broken lock, and \$45.00 was to replace two broken handles for a faucet.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the

hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues with respect to this entire tenancy:

1. Both parties agreed that all issues arising out of this tenancy will be satisfied by the landlord's agreement to pay the tenant \$275.00 by June 6, 2015 by way of a cheque payable to the tenant's agent CP, on behalf of the tenant;
2. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's Application at this hearing and any issues arising out of this tenancy;
3. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's potential claims against the tenant arising out of this tenancy;
4. Both parties agreed that they will not initiate any further claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above settlement terms as legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

### Conclusion

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 04, 2015

---

Residential Tenancy Branch