



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover the security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss; and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord's agent attended the conference call hearing and gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

Is the tenant entitled to a Monetary Order to recover double the security, pet and key deposits?

### Background and Evidence

The parties agreed that this month to month tenancy started on June 26, 2009. Rent for this unit was \$825.00 per month and was due on the first day of each month in advance. The tenant paid a security deposit of \$395.00 and a pet deposit of \$395.00 on June 12, 2009. The tenant also paid a key deposit of \$50.00. The tenancy ended on September 30, 2014.

The tenant testified that the landlord failed to return the security deposit within 15 days of receiving the tenant's forwarding address in writing. The tenant testified that the forwarding address was provided to the landlord on September 30, 2014 by documenting it on the move out condition inspection report. A copy of the report has been provided in documentary evidence. The tenant testified that the landlord did return \$850.00 by cheque. This was received on October 23, 2014. The tenant therefore seeks to exercise their rights and recover the doubled provision of the security, pet and key deposits from the landlord to the amount of \$850.00.

The tenant testified that the landlord was not given written permission to keep all or part of the security, pet or key deposits. The tenant refers to section 2.1 of the inspection report and testified that another agent for the landlord documented here the amounts the tenant had paid for her deposits plus an extra amount the landlord owed the tenants for putting a cheque through when the tenant had asked the landlord to hold it for a few extra days. The tenant incurred the fee of \$20.00 from her financial institution. The tenant testified that she was just asked to sign in this section of the report and it was not intended that the tenant was giving the landlord permission to keep the deposits.

The landlord's agent agreed that they did receive the tenant's forwarding address in writing on September 30, 2014. The landlord's agent testified that the landlord did not intend to keep the deposits and did return them to the tenant. The landlord testified they were sent a few days late as a cheque had to come from the landlord. The landlord's agent testified that the cheque was dated October 20, 2014. The landlord's agent testified that they should not have to return \$850.00 to the tenant for just being a few days late returning the deposits.

### Analysis

Section 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy or from the date that the landlord receives the tenant's

forwarding address in writing to either return the security, pet, and key deposits to the tenant or to make a claim against it by applying for Dispute Resolution. If the landlord does not do any of these things and does not have the written consent of the tenant to keep all or part of the security, pet and key deposits then pursuant to section 38(6)(b) of the *Act*, the landlords must pay double the amount of the deposits to the tenant.

I am satisfied with the undisputed testimony of the tenant that she did not agree the landlord could keep all or part of the security, pet or key deposits and that this section of the condition inspection report was filled in by the landlord's agent and signed in error by the tenant. Part of my reasoning for this decision is that the landlord did return the deposits in full to the tenant and the landlord's agent did not dispute that they did not intend to keep the deposits.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on September 30, 2014. As a result, the landlord had until October 15, 2014 to return all of the tenant's security, pet and key deposits or file a claim to keep them. As the landlord failed to do so, the tenant has established a claim for the return of double the security, pet and key deposits. As the amount of \$840.00 has already been returned to the tenant, I find the tenant is entitled to recover the doubled provision of the deposits to an amount of **\$840.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the security or pet deposits for the term of the tenancy.

The tenant is also entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$890.00**. The Order must be served on

the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

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: June 01, 2015

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Residential Tenancy Branch

