



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AVAUNPROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNDC MNSD OLC FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67 for damages to the property;
- b) An Order to retain the security deposit pursuant to Section 38; and
- c) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- d) For a return of twice the security deposit pursuant to section 38;
- e) An Order that the landlord obey the provisions in the Act; and
- f) To recover the filing fee for this application.

### **SERVICE**

The landlord did not attend the hearing. The tenant attended and gave evidence that she served the landlord with her Application for Dispute Resolution by registered mail. It was verified online that delivery was attempted on March 27, 2015, notices were left and it was returned to the sender when unclaimed by the recipient by April 19, 2015. I find the landlord is deemed to be served with the Application pursuant to section 88 and 90 of the Act for the purposes of this hearing.

The tenant said she had never received the landlord's Application and only found out about it when she went to file her Application for Dispute Resolution at the Residential Tenancy Office. I dismiss the landlord's Application for lack of service.

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

The tenant vacated the unit on March 31, 2013. As the landlord's Application has been dismissed for lack of service, there are no issues considered on the landlord's application.

Is the tenant entitled to twice her security deposit refunded and to recover filing fees for the application?

**Background and Evidence:**

Only the tenant attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. She provided evidence that she paid a security deposit of \$325 and a pet damage deposit of \$325 when she entered into a tenancy commencing February, 2014. Her rent was \$650. She vacated on February 28, 2015 but no condition inspection reports were done on move-in or move-out. She said the landlord said his photographs would be sufficient. She gave her forwarding address in writing to the landlord on March 3, 2015 and he returned her pet damage deposit to her but not the security deposit. She gave no permission to retain any of the deposit and requests she obtain a monetary order for twice her deposit and recovery of the filing fee.

In evidence is a statement from the tenant, registration receipts, the tenancy agreement, a copy of her forwarding address dated March 7, 2015 in a letter and many emails.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis**

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord did not serve the tenant with the Application, did not attend the hearing or provide any proof of his claim. I dismiss the application of the landlord.

I find the tenant is entitled to twice her security deposit refunded pursuant to section 38 of the Act which states:

Return of security deposit and pet damage deposit

*38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of (a) the date the tenancy ends, and*

*(b) the date the landlord receives the tenant's forwarding address in writing, the landlord must do one of the following:*

*(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;*

*(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.*

*(4) A landlord may retain an amount from a security deposit or a pet damage deposit if, (a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or*

*(b) after the end of the tenancy, the director orders that the landlord may retain the amount.*

*(6) If a landlord does not comply with subsection (1), the landlord*

*(a) may not make a claim against the security deposit or any pet damage deposit, and*

*(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.*

I find the tenant paid a security deposit of \$325 and gave no permission for the landlord to retain any of it. I find she vacated on February 28, 2015 and provided a forwarding address in a letter dated March 7, 2015 to the landlord which requested the return of her deposit. I find none of it has been refunded. I find her entitled to recover \$650 which is twice her security deposit.

**Conclusion:**

I dismiss the application of the landlord in its entirety. I find the tenant entitled to a monetary order for twice her security deposit plus recovery of the filing fees for her application.

Calculation of Monetary Award:

Original deposit (no interest 2014-15)	325.00
Twice the deposit	325.00
Filing fee	50.00
Total Monetary Order to Tenant	700.00

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: July 30, 2015

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Residential Tenancy Branch

