



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of the application. The tenant's application specifies a claim of double the amount of the security deposit.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Tenant's Application for Dispute Resolution and notice of this hearing by registered mail on March 19, 2015, no one for the landlord attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant. The tenant testified that the documents were served on that date and in that manner and were returned to the tenant marked "Unclaimed. The tenant has provided a copy of the cash register receipt issued by Canada Post as well as a copy of the Registered Domestic Customer Receipt containing a stamp by Canada Post bearing that date, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for all or part or double the amount of the security deposit?

### Background and Evidence

The tenant testified that this month-to-month tenancy began on September 1, 2014 and ended on January 13, 2015. Rent in the amount of \$1,100.00 per month was payable, however no written tenancy agreement was prepared and the parties never discussed a

due date. The landlord travelled a lot and the tenant gave the landlord cheques for rent when the landlord was in town. There are no rental arrears.

Prior to moving into the rental unit the landlord collected a security deposit from the tenant in the amount of \$550.00.

On December 15, 2015 the tenant gave the landlord notice in writing to vacate the rental unit effective December 31, 2014. The parties discussed it and the landlord told the tenant that she had to stay until January 15, 2015 because a full month's notice was required, and the tenant agreed and paid rent for the month of January, 2015. The tenant went on vacation and upon returning on January 13, 2015 found that the landlord had packed the tenant's belongings into boxes and had changed furniture covers and other items in the furnished rental unit. The tenant found her belongings packed in the laundry room.

The tenant put a letter in the landlord's mailbox on January 13, 2015 requesting return of the security deposit and half a month's rent which also contained the tenant's forwarding address. The tenant also sent a copy of the letter to the landlord by registered mail on January 14, 2015. Copies of the Canada Post cash register receipt and Registered Domestic Customer Receipt have been provided.

The tenant received a letter from the landlord, and has provided a copy which sets out an offer to settle. The letter is addressed to the tenant at the tenant's forwarding address and is dated February 22, 2015. The letter acknowledges receipt of the tenant's letter. The tenant testified that she didn't agree and did not sign the offer.

The tenant seeks double the amount of the security deposit, or \$1,100.00 in addition to \$638.71 of the January's rent paid for the landlord's failure to provide the tenant with occupancy of the rental unit after January 13, 2015. The tenant testified that the amount is a result of the amount of monthly rent divided by the number of days in the month and multiplied by the number of days in the month that the tenant was not able to remain in the rental unit. ( $\$1,100.00 / 31 \times 18 = \$638.71$ ).

### Analysis

The *Residential Tenancy Act* states that a landlord must return to a tenant any security deposit or pet damage deposit within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. If the landlord does neither, the landlord must repay the tenant double.

I am satisfied that the tenancy ended on January 13, 2015. I have reviewed the evidentiary material provided by the tenant and it is clear that the landlord received the tenant's forwarding address in writing prior to or on February 22, 2015. Instead of returning the security deposit to the tenant or making an application for dispute resolution claiming against the security deposit, the landlord made an offer to the tenant which was not agreed to by the tenant. Therefore, I find that the landlord must be ordered to repay the tenant double the amount, or \$1,100.00.

With respect to the tenant's claim for monetary compensation for part of January's rent, in the absence of any evidence to the contrary, I am satisfied that the landlord collected a full month's rent for January, 2015 from the tenant but packed up the tenant's items prior to January 13, 2015, and left them for the tenant to retrieve in the laundry room. I further find that the landlord took occupancy of the rental unit by that date, and the tenant is entitled to recovery of \$638.71.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$50.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,788.71.

This order is final and binding and may be enforced.

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: August 20, 2015

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Residential Tenancy Branch

