



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of double the security deposit – Section 38;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

### Background and Evidence

The following are undisputed facts: The tenancy started on August 23, 2013 and ended on October 31, 2014. Rent of \$2,000.00 was payable monthly on the first day of each month. The Landlord received the Tenant’s forwarding address by text message on November 1, 2015. On December 4, 2014 the Landlord returned \$2,000.00 as the security deposit to the Tenant in the form of money orders that are valid for one year. The Tenant has not cashed the money orders.

The Tenant states that at the outset of the tenancy the Landlord collected \$2,000.00 as a security deposit and \$1,000.00 as a pet deposit. The Tenant states that the notation

of \$3,580.00 noted as paid August 20, 2013 indicates the payment of \$2,000.00 for the security deposit, \$1,000.00 for the pet deposit and \$580.00 for the August 2013 pro-rated rent.

The Landlord states that the Landlord only collected \$1,000.00 as a security deposit and \$1,000.00 as a pet deposit. The Landlord states that the \$2,000.00 indicated on the tenancy agreement as the security deposit was an error in writing and should have read \$1,000.00. The Landlord states that the \$2,000.00 was for the rent for September 2013. The Landlord states that the notation of \$3,580.50 indicates \$1,000.00 paid towards half the rent, \$1,000.00 for the pet deposit and \$1,000.00 for the security deposit. The Landlord's counsel states that the notation of \$3,580.00 indicates \$1,000.00 towards the security deposit, \$2,000.00 for September 2013 rent and \$580.50 as pro-rated rent for August 2013. The Landlord states that no accounting was done and all deposits went into a general bank account. The Landlord states that the Tenant always paid in cash.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit.

The Landlord provided no supporting evidence of monies collected over the tenancy. Although the Landlord states that the Tenant paid in cash during the tenancy, the Landlord provided no copies of the receipts that the Landlord was required to provide to the Tenant for any cash payments. The Landlord's oral evidence was confusing and oddly contradicted by the Landlord's own counsel. As a result I prefer the Tenant's evidence and find that the Tenant has substantiated on a balance of probabilities that the Landlord collected a total combined security and pet deposit of \$3,000.00. As the Landlord returned a lesser amount of this deposit, given that no application to claim

against the deposit was made and considering that the amount that was returned was past the 15 days allowed I find that the Landlord must pay the Tenant double the security and pet deposit plus zero interest in the amount of **\$6,000.00**. As the Tenant's application has been successful I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$6,100.00**. Deducting the **\$2,000.00** already returned to the Tenant leaves **\$4,100.00** owed by the Landlord.

#### Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$4,100.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: September 22, 2015

---

Residential Tenancy Branch

