



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes:      O

### Introduction

This hearing was convened in response to an Application for Dispute Resolution (the "Application") made by the Tenant on June 25, 2015 for "Other" issues.

The Tenant, an agent for the Landlord, and the property manager appeared for the hearing and provided affirmed testimony. The Landlord's agent confirmed receipt of the Tenant's Application and her evidence. The Tenant confirmed receipt of the Landlord's documentary evidence prior to the hearing.

The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence on the relevant issues below, make submissions to me, and cross examine the other party.

The Tenant wrote in the details section of the Application, "*evicted due to water damage to unit below mine from shower. I lived there two years. Outstanding fee owing is outrageous and not accurate*". As a result, I asked the Tenant to explain the reasons why she had made the Application because it was not clear to me what the Tenant was requesting to be determined in this hearing.

The Tenant explained that she had vacated the rental unit on April 30, 2015 pursuant to a notice to end tenancy for cause. After this time the Landlords had sent her a breakdown of costs they were seeking from her as the reason for not returning her security deposit. The Tenant confirmed that her reason for the Application was the return of her security deposit as the issue to be decided in this hearing.

### Issue(s) to be Decided

Is the Tenant entitled to the return of the security deposit?

### Background and Evidence

The parties confirmed that this tenancy started on May 1, 2013 for a fixed term due to end on October 31, 2013. A written tenancy agreement was signed and rent for the tenancy was payable in the amount of \$750.00 on the first day of each month. The Tenant provided the Landlord with a security deposit in the amount of \$375.00 on March 28, 2013, which the Landlord still retains.

The Tenant explained that she had been served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on March 28, 2015. The Notice had a vacancy date of April 30, 2015. As a result, the Tenant vacated the rental unit pursuant to the vacancy date on the Notice.

When the Tenant was asked whether she had provided the Landlord with a forwarding address, the Tenant replied that she had not because she did not want to give her place of residence away to the Landlord. However, the Tenant acknowledged that she does not have to provide the Landlord with an address where she actually resides. The Tenant explained that the Landlord was aware of where the Tenant resides and this address was detailed on her Application.

The Landlord confirmed that they had not been provided with a forwarding address in writing by the Tenant before or after the tenancy had ended. The Landlord's agent also confirmed that they had not made an Application against the Tenant for a monetary claim for unpaid and loss of rent as well as damages to the rental unit.

Pursuant to my authority under Section 63 of the Act, I attempted to mediate a resolution between the parties. However, this proved to be unsuccessful.

### Analysis

Section 38(1) of the Act states that, within 15 days after the latter 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 to claim against it.

On the basis of the undisputed evidence, I find the tenancy ended on April 30, 2015 pursuant to the Notice. I also find that it was undisputed that the Tenant did not serve the Landlord with a forwarding address in writing until the Tenant served the Landlord with her Application on June 25, 2015.

I find that it would be an inconsistent application of the law to conclude that the Tenant

has provided the Landlord with a forwarding address in writing if the Tenant only provided the address when the landlord was served with the Application. I find that the legislation contemplates that the forwarding address be provided, in writing, prior to the Tenant filing an Application. I find it would be unfair to the Landlord to conclude differently, as the Landlord may conclude that it is too late to make a claim against the deposit because the matter is already scheduled to be adjudicated.

As the Tenant filed this Application prior to providing a forwarding address to the Landlord in writing, I find that the Tenant's Application was filed prematurely. I therefore dismiss the Tenant's Application for the return of the security deposit with leave to reapply.

As the Landlord's agent was present during the hearing, the Tenant confirmed her forwarding address. This was confirmed with the Landlord's agent and is also documented on the front page of this decision for clarity purposes. As a result, I advised the Landlord's agent that the Landlord has 15 days from the date of this hearing, until December 18, 2015, to either return the Tenant's security deposit or make an Application against it.

### Conclusion

The Tenant's Application for the return of the security deposit is premature. The Landlord is obligated to deal with the Tenant's security deposit in accordance with the Act by December 18, 2015. The Tenant is at liberty to re-apply if the Landlord fails to comply with the Act.

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: December 03, 2015

---

Residential Tenancy Branch

