



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, O, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38;
- other remedies, identified as a monetary order for bank charges, pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord's agent mother, MK ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord named in this application provided written confirmation that her mother had authority to speak on her behalf as an agent at this hearing. This hearing lasted approximately 75 minutes in order to allow both parties to fully present their submissions and negotiate a settlement of this claim.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and the tenant confirmed receipt of the landlord's written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's Application and the tenant was duly served with the landlord's written evidence.

In accordance with section 64(3)(c) of the *Act*, I amend the tenant's application to increase her monetary claim by \$20.00 to account for bank charges that the tenant says she paid. The tenant did not include this amount in her monetary claim, although she provided written details in her Application. The landlord consented to this amendment request by the tenant.

### Issues to be Decided

Is the tenant entitled to a monetary award equivalent to double the value of her security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*?

Is the tenant entitled to a monetary award for bank charges?

Is the tenant entitled to recover the filing fee for this Application from the landlord?

### Background and Evidence

Both parties agreed that this month-to-month tenancy began on May 1, 2011 and ended on April 25, 2015. Both parties agreed that monthly rent in the amount of \$1,492.12 was payable on the first day of each month. Both parties agreed that the tenant paid a \$700.00 security deposit to the landlord and the landlord continues to retain this deposit. Both parties agreed that move-in and move-out condition inspection reports were not completed for this tenancy. Both parties agreed that the tenant did not provide written permission to the landlord to retain any amount from her security deposit. The tenant stated that she provided a forwarding address to the landlord's property manager on April 27 or 28, 2015, by way of a text message only. The landlord stated that she could not confirm this information, as she is not aware of these text messages. The landlord stated that the tenant did not provide a written forwarding address on a document.

The tenant seeks to recover double the amount of her security deposit, totalling \$1,400.00, because the landlord failed to return it or apply to retain it within 15 days of the end of this tenancy. The tenant also seeks \$20.00 in bank charges for putting a stop payment on three rent cheques from May to July 2015, after she had already vacated the rental unit. The tenant said that she requested a return of these cheques but the landlord failed to return it in a timely manner. The tenant also seeks to recover the \$50.00 filing fee paid for this Application.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute and arising out of this tenancy:

1. Both parties agreed that the landlord will retain \$500.00 from the tenant's security deposit;
2. Both parties agreed that the landlord will return the remainder of the tenant's security deposit in the amount of \$200.00 to the tenant by way of mail to be sent out by January 15, 2016;
3. The tenant agreed to bear the cost of the \$50.00 filing fee paid for her Application;
4. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's Application at this hearing and any issues arising out of this tenancy;
5. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's potential claims against the tenant and any issues arising out of this tenancy;
6. Both parties agreed that they will not initiate any further claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties testified at the hearing that they understood and agreed to the above settlement terms, free of any duress or coercion. Both parties testified that they understood that the settlement terms are legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

The landlord confirmed that she was aware that she was making this agreement as an agent on behalf of her daughter, the landlord named in this Application. The landlord agreed that her daughter was bound by the terms of this agreement and that she would inform her daughter about this settlement and the terms.

### Conclusion

I order the landlord to retain \$500.00 from the tenant's security deposit in order to implement this settlement agreement.

In order to implement the above settlement and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$200.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord does not abide by condition #2 of the above settlement. The tenant is provided with this Order in the above terms and the landlord must be served

with a copy of this Order as soon as possible after a failure to comply with condition #2 of the above settlement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The tenant must bear the cost of the \$50.00 filing fee for this Application.

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: January 11, 2016

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Residential Tenancy Branch

