



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HEATHER PARK PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord to keep the Tenant’s security and pet damage deposits (the “Deposits”) and to recover the filing fee from the Tenant.

The Tenant appeared for the hearing and provided affirmed testimony. However, there was no appearance for the Landlord despite the line being left open for ten minutes to allow the Landlord an opportunity to appear. The Tenant testified that she had been served notice of this hearing by the Landlord via registered mail. No documentary evidence was provided by either parties prior to this hearing.

At the start of the hearing, the Tenant disputed the Landlord’s Application to keep her \$875.00 Deposits. The Tenant confirmed that the tenancy had ended on December 1, 2015 and the Tenant had provided the Landlord with the forwarding address shortly after. This was the same address the Landlord used on their Application and to serve the Tenant with notice off this hearing.

While I find the Landlord did make the Application within the 15 day time limit provided by Section 38(1) of the Act, the Landlord failed to appear for the hearing and explain their evidence in relation to the monetary claim to keep the Tenant’s Deposits. Therefore, I dismissed the Landlord’s Application without leave to re-apply.

Section C of Policy Guideline 3 to the Act on Security Deposit and Set Off states in part:

*“The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on: • a landlord’s application to retain all or part of the security deposit; or • a tenant’s application for the return of the deposit. unless the tenant’s right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit*

*or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.”*

[Reproduced as written]

The Landlord failed to appear for the hearing and provide insufficient evidence of how the Tenant may have extinguished her right to the return of the Deposits under the Act. Therefore, I must order the Landlord to return the Tenant's \$875.00 Deposits forthwith.

The Tenant is issued with a Monetary Order for this amount pursuant to Section 67 of the Act. This order must be served on the Landlord and may then be filed and enforced in the Small Claims Division of the Provincial Court as an order of that court if payment is not made. Copies of this order are attached to the Tenant's copy of this decision.

### Conclusion

The Landlord's Application is dismissed without leave to re-apply as they failed to appear for the hearing. The Tenant is granted a Monetary Order for the return of her Deposits in the amount of \$875.00.

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 11, 2016

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Residential Tenancy Branch