



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This was a hearing with respect to the tenant's application for the return of a security deposit. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing.

### Issue(s) to be Decided

Is the tenant entitled to payment of a portion the security deposit and if so, in what amount?

### Background and Evidence

The rental unit is an apartment in Richmond. The tenancy began July 20, 2015 for a four month period ending November 26, 2015. The tenant paid a security deposit of \$1,000.00 at the start of the tenancy. On October 5, 2015, during the tenancy the landlord informed the tenants that the strata corporation had fined her the sum of \$200.00 for: "improper throw garbage". The tenants disputed that they had improperly disposed of garbage and denied responsibility for the charge. The landlord said she would speak to the building manager about the fine. The landlord later told the tenants that the fine had been waived.

The tenants moved out on November 26, 2015. On December 5, 2016 the landlord told the tenants that the security deposit refund was ready. The landlord refunded only \$755.00 of the \$1,000.00 deposit. She deducted \$45.00 for a minor repair. The tenant did not dispute this deduction. The landlord also deducted \$200.00 for a strata fine for improperly disposing of garbage. The tenant did not agree to the deduction. The tenant took the matter up with the property manager. The tenant received documents including a copy letter from the former property manager to the landlord dated July 27, 2016. In the letter the strata manager told the landlord that a strata bylaw violation occurred on July 16, 2015 when the landlord was observed to have put an un-flattened cardboard box into the wrong recycling bin. The landlord was advised that the fine for such an offence was \$200.00, but she could answer the complaint in writing or request

a hearing. The landlord did not respond to the letter and a \$200.00 fine was levied, as set out in a letter to the landlord dated August 11, 2016.

The tenant pointed out that the event which led to the fine occurred before the tenancy commenced on July 20, 2016 and the tenants therefore could not be responsible for the charge. The tenant requested a monetary order for the balance of the security deposit plus the \$100.00 filing fee paid for the tenant's application.

During the hearing the landlord was insistent that the fine was the responsibility of the tenants. She did not submit any documentary evidence in reply to the tenant's claim.

### Analysis

The Tenant's evidence clearly established that the \$200.00 strata fine was imposed for an infraction of the garbage disposal bylaw that occurred before the tenancy began. There was no basis for the landlord to withhold the sum of \$200.00 from the tenant's security deposit and she did not have written permission to do so. At the hearing the tenant specifically declined an award of double the security deposit. He requested the refund of the \$200.00 that was withheld, plus the filing fee for his application.

I find that the tenant is entitled to an award in the amount of \$200.00 as claimed. He is entitled to recover the \$100.00 filing fee paid for his application, for a total award of \$300.00 and I grant him an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court.

### Conclusion

The tenant's application has been allowed and a monetary order issued in the amount of \$300.00.

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: September 22, 2016

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Residential Tenancy Branch