



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

MNDC MNSD FF

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution seeking remedy under the *Residential Tenancy Act* (the "*Act*"). The tenant applied for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for the return of double his security deposit and pet damage deposit, and to recover the cost of the filing fee.

The tenant attended the teleconference hearing. The tenant gave affirmed testimony. During the hearing the tenant presented his evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application for Dispute Resolution (the "Application") and documentary evidence were considered. The tenant provided affirmed testimony that the Notice of Hearing, Application and documentary evidence were served on the landlord by registered mail on February 19, 2016 and that the registered mail package was signed for and accepted by the landlord on February 22, 2016.

The tenant provided a registered mail tracking number and customer receipt in evidence and confirmed that the name and address on the registered mail package matched the name of the landlord and the mailing address for the landlord based on a land title search the tenant paid for and submitted in evidence. The reason for the tenant's application was based on the landlord providing a false name to the tenant for their verbal tenancy agreement which the tenant only found out was false after conducted a land title search which confirmed the actual name of the landlord. A previous monetary order had been granted to the tenant, which had the wrong landlord name, the file number of which was included on the cover page of this Decision for ease of reference. The tenant was unable to enforce that monetary order due to the wrong landlord name. Therefore, the tenant has applied with the correct landlord name and proof of such by providing the results of the land title search in evidence. I find the landlord was sufficiently served as of February 22, 2016, the day the landlord signed for and accepted the registered mail package.

Issue to be Decided

- Is the tenant entitled to any monetary compensation under the *Act*, and if so, in what amount?

Background and Evidence

The tenant testified that the parties had a verbal tenancy agreement which began on June 15, 2014. On November 1, 2014 the tenancy ended by way of a mutual agreement according to the tenant. The tenant stated that he paid a security deposit of \$400.00 and a pet damage deposit of \$200.00 at the start of the tenancy. The monthly rent during the tenancy was \$800.00 per month and due on the 15<sup>th</sup> day of each month.

The tenant's monetary claim which was clarified by the tenant during the hearing is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Return of security deposit X 2	\$400.00 X 2 = \$800.00
2. Return of pet damage deposit X 2	\$200.00 X 2 = \$400.00
3. Land Title Search	\$8.05
4. Mileage	\$107.60
5. Long distance phone calls	\$10.00
6. Recovery of first filing fee (due to wrong name of landlord provided by landlord)	\$50.00
7. Recovery of filing fee for this application	\$100.00
<b>TOTAL</b>	<b>\$1,475.65</b>

Regarding items 1 and 2, the tenant testified that he failed to serve his written forwarding address on the landlord in November 2014 which is supported by the earlier Decision, the file number of which has been included on the cover page of this Decision. The tenant was successful; however, with a monetary order in that Decision dated August 10, 2015 only to later determine that the landlord had been deceptive by providing a false name to the tenant. Therefore, the tenant completed a land title search which was submitted in evidence. The land title search confirms the landlord's name as the correct landlord name as the respondent in the Application before me. The tenant confirmed that he has since served his written forwarding address on the landlord on February 19, 2016 and has not received his security deposit of \$400.00 and pet damage deposit of \$200.00.

Regarding item 3, the tenant has claimed for the recovery of the cost of the land title search in the amount of \$8.05. The tenant submitted a copy of the receipt in evidence and stated that the land title search was necessary due to the landlord providing an incorrect name to the tenant.

Regarding items 4 and 5, these items were dismissed during the hearing as there is no remedy under the *Act* for mileage and long distance phone calls relating to a claim for dispute resolution.

Regarding items 6 and 7, the tenant has applied for the recovery of both the first filing fee and the second filing fee. The first filing fee was granted to the tenant but could not be enforced according to the tenant due to the landlord providing a false name. The second filing fee is related to this Application.

### Analysis

Based on the undisputed documentary evidence and the unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Regarding items 1 and 2, I find that since the landlord was successfully served and did not attend the hearing, that this matter is considered to be unopposed by the landlord. Furthermore, I accept the tenant's undisputed testimony that he served the landlord with his written forwarding address and has not received his \$400.00 security deposit and \$200.00 pet damage deposit from the landlord. Therefore, I find the landlord has breached section 38 of the *Act* and the tenant is entitled to the return of **\$600.00** comprised of \$400.00 for the single security deposit and \$200.00 for the single pet damage deposit as the tenant's written forwarding address was served to the correct landlord address as of February 22, 2016 and his application was premature for double the return of both deposits by filing his Application on January 27, 2016.

Regarding item 3, the tenant submitted a copy of the receipt in evidence for \$8.05 for the land title search and stated that the land title search was necessary due to the landlord providing an incorrect name to the tenant. I find the landlord breached section 13 of the *Act* **three times** by failing to have the tenancy agreement in writing, failing to provide the landlord's legal name in writing, and failing to provide a service address for the landlord in writing. Therefore, I grant the tenant **\$8.05** for the cost of the land title search due to the landlord breaching section 13 of the *Act* three times which required the tenant to conduct the land title search. **I caution** the landlord to comply with section 13 of the *Act* in future. Failure to do so could result in the landlord being recommended for an administrative penalty under the *Act* which carries a maximum penalty of \$5,000.00 per day.

Regarding items 4 and 5, as mentioned above, these items were dismissed during the hearing as there is no remedy under the *Act* for mileage and long distance phone calls relating to a claim for dispute resolution.

Regarding items 6 and 7, the tenant has applied for the recovery of both the first filing fee and the second filing fee. The first filing fee was granted to the tenant but could not be enforced according to the tenant due to the landlord providing a false name. The second filing fee is

related to this Application. Pursuant to section 72 of the *Act*, and taking into account that the tenant's Application had merit, I find the tenant is entitled to the recovery of both filing fees in the total amount of **\$150.00**.

**Monetary Order** – I find that the tenant has established a total monetary claim in the amount of **\$758.05**, comprised of \$600.00 for items 1 and 2, \$8.05 for item 3, and \$150.00 for items 6 and 7. I grant the tenant a monetary order pursuant to section 67 of the *Act* in the amount of \$758.05.

### Conclusion

A portion of the tenant's application is successful. The tenant has established a total monetary claim of \$758.05 as indicated above. The tenant has been granted a monetary order under section 67 of the *Act* in the amount of \$758.05. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: October 3, 2016

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Residential Tenancy Branch