



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, MNDC, FF

### Introduction

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

- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 62;
- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not participate in the conference call hearing, which lasted approximately 10 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that she personally served the building manager with the tenant's application for dispute resolution hearing package ("Application") on September 10, 2016. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was deemed served with the tenant's Application on September 10, 2016, the day it was served.

### Preliminary Issue

The tenant did not provide testimony or evidence in relation to the order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement she sought in her application therefore this portion of her claim is dismissed without leave to reapply.

### Issue(s) to be Decided

Is the tenant authorized to obtain a return of all or a portion of the security deposit?

Is the tenant authorized to recover the filing fee for this application from the landlord?

### Background and Evidence

As per the testimony of the tenant, the tenancy began on June 1, 2014 on a fixed term until May 31, 2015 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$885.00 was payable on the first of each month. The tenant vacated the rental unit on July 31, 2016.

The tenant remitted a security deposit in the amount of \$430.00 at the start of the tenancy. At the end of tenancy, on July 31, 2016 the tenant attended the move-out inspection and provided her forwarding address on the condition inspection report. The tenant testified that the landlord did not provide a copy of this report to her.

The tenant testified that on August 31, 2016 she retrieved her security deposit in the amount of \$430.00 from the landlord, however because this was received past the fifteen days allowable under the *Act*, the tenant now seeks double the amount of the security deposit less the \$430.00 already paid.

The tenant also seeks to recover the \$100.00 filing fee from the landlord.

### Analysis

Section 38 of the *Act* establishes that a landlord has fifteen days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to file an arbitration application claiming against the deposit, or return the deposit. The tenant may waive their right to the return of the security deposit through written authorization to the landlord. In the absence of written authorization to retain the security deposit from the tenant, the landlord must return the security deposit or file an application within fifteen days. Should the landlord fail to do this, the landlord must pay the tenant double the amount of the security deposit.

Based on the undisputed testimony of the tenant, I find the landlord has been served with the forwarding address on July 31, 2016. Within fifteen days of receipt of the forwarding address the landlord did not file an arbitration application to retain the deposit, the landlord did not return the deposit and the landlord did not receive written authorization to retain it. Based on this, I find the tenant is entitled to double the value of her security deposit in the amount of \$860.00 less the \$430.00 paid late for a total of \$430.00.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for the application, for a total award of \$530.00.

Conclusion

The tenant's application for an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement is dismissed without leave to reapply.

I issue a monetary order in the tenant's favour in the amount of \$530.00 against the landlord.

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: March 06, 2017

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Residential Tenancy Branch