



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties acknowledged receipt of the notice of hearing package and the submitted documentary evidence. As such, I am satisfied that both parties have been sufficiently served as per section 90 of the Act.

At the outset the tenant clarified that her monetary claim has been lowered to \$200.00 from the original \$883.25. Both parties confirmed their understanding and the hearing proceeded.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of all or part of the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on June, 1, 2012 on a 2 year fixed term tenancy which was renewed for a subsequent 2 year fixed tenancy and then to a month-to-month basis until August 31, 2016 when the tenancy ended. Both parties confirmed that the monthly rent began as \$2,650.00 and ended at \$2,700.00 payable on the 1<sup>st</sup> day of each month.

Both parties agreed that a security deposit of \$1,325.00 and a pet damage deposit of \$1,325.00 were paid. Both parties agreed that the remaining \$200.00 portion of the security deposit is the only issue of dispute.

The tenant seeks a monetary claim of \$200.00 for return of the remaining portion of the security deposit held by the landlord.

Both parties confirmed that the tenancy ended on August 31, 2016 and that the landlord was provided with the tenant's forwarding address in writing on August 1, 2016. The landlord provided undisputed affirmed testimony that he did not have permission from the tenant to retain the disputed \$200.00. The landlord also stated that he did not file an application to dispute its return to the tenant.

The landlord provided undisputed affirmed evidence that he was only able to obtain the tenant's contact information to contact her on September 10, 2016. The landlord emailed the tenant on September 11, 2016 to try and resolve the dispute. The tenant confirmed in her evidence that the landlord received her email contact information on September 10, 2016.

### Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security deposit.

In this case, it is clear based upon the undisputed evidence of both parties that the landlord withheld \$200.00 from the original \$1,325.00 security deposit in dispute over money owed or compensation sought by the landlord. Both parties confirmed that the tenancy ended on August 31, 2016 and that the landlord received the tenant's forwarding address in writing on August 1, 2016. The landlord provided undisputed affirmed evidence that he did not have permission from the tenant to withhold the \$200.00 nor did the landlord file an application to dispute its return. As such, I find that the tenant has established a claim for return of the \$200.00 disputed portion of the security deposit. I also find pursuant to section 38 (6) that the landlord failed to comply with the Act and is liable to an amount equal to the \$1,325.00 security deposit for failing to comply with the Act.

The tenant has established a total monetary claim of \$1,525.00.

Conclusion

The tenant is granted a monetary order for \$1,525.00.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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 17, 2017

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Residential Tenancy Branch