



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of the application.

The hearing did not conclude on the first day scheduled and was adjourned at the request of the landlord and with the consent of the tenant. My Interim Decision was provided to the parties.

The landlord and the tenant attended the hearing on both scheduled dates, and each gave affirmed testimony. The parties were also given the opportunity to question each other, and agree that there are no issues with respect to service or delivery of documents or evidence.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for all or part or double the amount of the security deposit?

### Background and Evidence

**The tenant** testified that this month-to-month tenancy began on August 23, 2016 and the tenant moved out of the rental unit on December 16, 2016. Rent in the amount of \$600.00 per month was payable on the 1<sup>st</sup> day of each month, and the tenant paid a pro-rated amount for the first month of the tenancy. The rental unit is a room in the basement of the rental home and the landlord resides in the upper level. The tenant shares kitchen and bathroom facilities with the landlord and a couple of young fellows. The tenant does not know if the landlord is the owner of the rental property. No move-in

or move-out condition inspection reports were completed and no written tenancy agreement was prepared or signed by the parties.

The tenant also testified that prior to moving into the rental unit the landlord collected a security deposit from the tenant in the amount of \$300.00 which is still held in trust by the landlord, and no pet damage deposit was collected. On January 20, 2017 the tenant gave the landlord a letter stating that it was a formal statement of the tenant's change of address for return of the security deposit and the tenant's forwarding address was contained in that letter. The landlord told the tenant that he would deposit the money into the tenant's bank account, but the tenant went to Mexico and the money was never deposited. The tenant has asked via text messages for the return of the security deposit and testified that the landlord only gives excuses and lies.

**The landlord** testified that the tenant knew that the rental unit was shared accommodation. The landlord and his children reside upstairs in the rental home but the landlord does not own the rental home.

At the end of September, 2016 the tenant advised the landlord that rent was a little too much and he couldn't afford it and wanted something closer to the downtown area. The tenant told the landlord he found a place for \$550.00 per month, and the landlord agreed to reduce rent to \$475.00 per month.

The tenant wasn't clear about his departure date. On October 26 the tenant advised he would be moving on November 16 but wasn't sure of the date because his new place still required work. The landlord told the tenant that 30 days notice was required so that the landlord could advertise, and the tenant said he understood and would get back to the landlord with a firm date. The tenant didn't do so and moved out on November 16, 2016, not on December 16, 2016.

The landlord agrees that he received the tenant's forwarding address in writing on January 20, 2017, and the rental unit was re-rented for January 1, 2017.

### Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit or pet damage deposit in full to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. If the landlord fails to do either, the landlord must repay the tenant double the amount.

In this case, the parties agree that the landlord received the tenant's forwarding address in writing on January 20, 2017 but do not agree on the date that the tenancy ended. The landlord testified that the tenant moved out on November 16, 2016 and the tenant testified that it was on December 16, 2016. Regardless of which day the tenant moved out, the clock started ticking on January 20, 2017. The landlord did not make an application for dispute resolution claiming against the security deposit and did not return any portion of it within 15 days of that date, and therefore, I find that the tenant is entitled to double the amount, or \$600.00.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$700.00.

This order is final and binding and may be enforced.

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: April 05, 2017

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Residential Tenancy Branch