



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OLC, MNR, MNSD

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization recover the security deposit and pet damage deposit for this tenancy pursuant to section 38; and
- an order that the landlord comply with the Act, regulation or tenancy agreement pursuant to section 62.

The landlord did not attend this hearing, which lasted approximately 15 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 served her application for dispute resolution, dated May 15, 2017 on the landlord by registered mail on May 16, 2017. The tenant provided a copy of the Canada Post registered mail tracking number as evidence of service. The tenant filed an Amendment to the application for dispute resolution on June 15, 2017, adding related claims. The tenant testified that she served the landlord with the amendment by registered mail and provided a Canada Post tracking number as evidence of service. In accordance with sections 89 and 90 of the Act, I find that the landlord was deemed served with the tenant's application for dispute resolution and amendment.

### Issue(s) to be Decided

Is the tenant entitled to a monetary award for damage and loss as claimed?

Is the tenant entitled to a return of all or a portion of the security deposit and pet damage deposit for this tenancy?

Should the landlord be ordered to comply with the Act, regulation or tenancy agreement?

### Background and Evidence

The tenant testified that this tenancy was the subject of a previous hearing under the file number provided on the first page of this decision. In the earlier decision the other arbitrator found that there was a security deposit of \$335.00 paid, no pet damage deposit, and a rental arrear as of June, 2015. The other arbitrator issued a monetary order in the landlord's favour for the rental arrear and allowed the landlord to retain the security deposit in partial satisfaction of the monetary claim.

During this hearing the tenant claimed that a security deposit of \$337.50 was paid at the start of the tenancy, along with a pet damage deposit of \$337.50. The tenant testified that there was overpayment of the monthly rent during the tenancy in the amount of \$560.00. The tenant also said that the landlord failed to provide her with a copy of the tenancy agreement when it was first signed in June of 2013 and believes that it contained unenforceable terms.

### Analysis

The principle of *res judicata* prevents an applicant from pursuing a claim that has already been conclusively decided. In the earlier written decision the other arbitrator makes a finding that the security deposit for this tenancy is \$335.00 and no mention is made of a pet damage deposit. I find that this is a conclusive finding of fact regarding the deposits paid for this tenancy. Therefore, I find that I do not have the jurisdiction to make a new finding. The other arbitrator found that the arrear for this tenancy was \$1,684.00 as at the date of the earlier hearing. The landlord was allowed to retain the security deposit in partial satisfaction of the monetary claim. I find that the tenant's monetary claim deals with issues that have been conclusively dealt with in the previous decision. The tenant seeks an order that the landlord comply with the Act, regulation or tenancy agreement by returning the security deposit but this is an issue that has been conclusively ruled upon. As such, I dismiss the tenant's application.

### Conclusion

The tenant's application is dismissed.

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: June 26, 2017

---

Residential Tenancy Branch