



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT/MNSD

### Introduction

On May 8, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* requesting a Monetary Order for compensation for rent and a Monetary Order for the return of double their security deposit. The matter was set for a participatory hearing via conference call.

The Landlords and the Tenant attended the hearing and provided affirmed testimony. They were given the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

Should the Tenant receive reimbursement for rent that he paid while not living in the rental unit?

Should the Tenant receive double the amount of his security deposit?

### Background and Evidence

The Tenant and the Landlords agreed to the following statement of facts:

The tenancy between the Landlords and the Tenant began on February 27, 2018 on a month-to-month basis. The rent was \$900.00 a month, payable on the first of each month. The Landlord collected and still holds a security deposit of \$450.00.

#### Tenant's Evidence:

The Tenant testified that on April 8, 2018, he received a twenty-four hour eviction notice from his Landlords. When he confronted the Landlords about the notice, he stated that they began yelling at him. The Tenant packed up his belongings and left the rental unit at 10:30 a.m. on April 9, 2018.

The Tenant stated that he removed his personal effects; however, did not have time to move his furniture or clean the rental unit properly. He made arrangements with a Thrift Store to attend to the rental unit to remove the furniture.

The Tenant provided as evidence and testified that he sent a letter, dated April 12, 2018, to the Landlords to request the return of his security deposit, reimbursement for 22 days of April's rent and to provide his forwarding address.

As a result of the Landlords not returning his security deposit, the Tenant made an Application for Dispute Resolution.

The Tenant disputed the allegations made by the Landlords regarding his use of drugs, aggressive behaviour and attempting to force his way into their home.

Advocate YB stated that she made contact with the Canadian Mental Health Association, an organization that supplements the Tenant's rent, and they confirmed that they contacted the Landlord; however, had not received any correspondence or reimbursement of rent for April 2018.

#### Landlords' Evidence:

Landlord RK testified that she received the security deposit for the Tenant from Metro Community Church and has not returned the security deposit.

Landlord RK testified that soon after the Tenant moved into the rental unit, which was a self-contained basement suite below the Landlords residence, they began to have problems that included parties, people coming over to the rental unit late at night and the Tenant buying drugs from a dealer out front of their address. Landlord RK provided

testimony regarding four different times where she warned the Tenant in March 2018, via text, that if he kept up the noise/activities, he would have to leave.

Landlord MA stated that, on April 8, 2018, when he told the Tenant that he was “on his way out”, the Tenant aggressively responded by threatening damage to the rental unit and threatening the Landlords that “bad things would happen.”

Landlord RK stated that she consulted with the local police and then typed up a twenty-four hour eviction notice and served it on the Tenant. She admitted that she “just made it up.” This document was not submitted as evidence.

Landlord RK stated, upon the Tenant vacating the rental unit, that there was furniture and dirty dishes still in the unit. She stated they had to do several “dump runs” as the Thrift Store only collected some of the furniture and left many items behind. Landlord RK also stated that they had to change the locks on the rental unit. Landlord RK said she had attempted to communicate with the staff at Metro Community Church about the security deposit; however, no one has replied to her. Landlord RK acknowledged that she does not have consent from the Tenant or the Metro Community Church to keep the security deposit, nor has she applied for Dispute Resolution to keep the security deposit.

Landlord RK stated that she received the Tenant’s letter that provided his forwarding address on April 14, 2018.

Landlord RK testified that she has collected rent for April 2018 and is waiting for the Ministry of Disabilities to send her an invoice for the last half of April’s rent.

### Analysis

The *Residential Tenancy Act* (“the Act”) applies to tenancy agreements, rental units and other residential property. Section 5 of the Act states that Landlords and Tenants may not avoid or contract out of this Act. Section 7(1) of the Act states if a Landlord or Tenant does not comply with the Act or their tenancy agreement, the non-complying Landlord or Tenant must compensate the other for damage or loss that results.

Part 4 of the Act provides specific guidance for Landlords and Tenants on how to end a tenancy. In relation to the circumstances of this Application, I refer the Landlords to Section 47 that speaks to how a Landlord may end a tenancy for cause, and also

Section 56 that speaks to how a Landlord can make an Application for an Order to end a tenancy early based on the Tenant, for example, unreasonably disturbing the Landlord, seriously jeopardizing the health or safety of another occupant or engaging in illegal activity that is likely to cause damage to the Landlord's property.

In this case, the Landlords testified that they made up their own twenty-four hour eviction notice, served it on the Tenant and subsequently, the Tenant moved out of the rental unit within twenty-four hours. I find that the Landlords have, by working around and avoiding the Act, wrongly evicted the Tenant. As such, the Landlords must compensate the Tenant for any losses in accordance with Section 7(1) of the Act.

Although the Tenant had remedies available to him through the Act, I accept that he felt pressured to move out of the rental unit as a result of the actions of the Landlords and the eviction notice that was served on him. During the hearing, the Landlords acknowledged that some compensation for rent may be due to the Tenant; however, argued that the Tenant left the rental unit full of furniture and not clean; therefore, they could not rent out the unit until it was empty and cleaned. I find that it would be unfair to penalize the Tenant for leaving the rental unit full of furniture when the Landlords wrongfully evicted him within a twenty-four hour period; essentially making it almost impossible for the Tenant to fully vacate the rental unit. Based on Section 7(1) of the Act, the testimony and evidence presented, I find that the Landlords should reimburse the Tenant for 22 days of rent, from April 9 to April 30, 2018. As the Landlords received \$900.00 rent for the month of April (\$30.00 per day), I find that the Landlords should reimburse the Tenant \$660.00.

Section 38 of the Act states that the Landlord has fifteen days, from the later of the day the tenancy ends or the date the Landlord received the Tenant's forwarding address in writing to return the security deposit to the Tenant, reach written agreement with the Tenant to keep some or all of the security deposit, or make an Application for Dispute Resolution claiming against the deposit. If the Landlord does not return or file for Dispute Resolution to retain the deposit within fifteen days, and does not have the Tenant's agreement to keep the deposit, the Landlord must pay the Tenant double the amount of the deposit.

I accept the Tenant's undisputed testimony and evidence that they requested their \$450.00 security deposit and notified the Landlord of their forwarding address on April 14, 2018, in accordance with Sections 88 and 90 of the Act.

The Landlords have not returned the security deposit, reached written agreement with the Tenant to keep the security deposit or made an Application for Dispute Resolution claiming against the deposit. For these reasons, I find the Landlords must reimburse the Tenant double the amount of the outstanding security deposit for a total of \$900.00, pursuant to Section 38 of the Act.

The Tenant has established a monetary claim in the amount of \$1,560.00, which includes \$660.00 for returned rent and \$900.00 for double the security deposit. Based on these determinations, I grant the Tenant a Monetary Order for \$1,560.00.

I have ordered that the Landlords must pay this amount directly to the Tenant, even if they believe these funds were originally supplied and should go back to some other entity. It is up to the Tenant to distribute the funds in accordance with any agreements he *may* have with the other entities.

#### Conclusion

I grant the Tenant a Monetary Order for the balance of \$1,560.00. In the event that the Landlords do not comply with this Order, it may be served on the Landlords, filed with the Province of British Columbia Small Claims 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: June 20, 2018

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Residential Tenancy Branch