



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** *MNSD, FF*

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit and the pet deposit. The tenant also applied for the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on July 13, 2018. The tenant provided a tracking number.

Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

During the hearing the tenant informed me that she had made an error in her application for dispute resolution, regarding the amount of the deposits she paid to the landlord at the start of tenancy. The tenant stated that she had paid a total of \$1,095.00 in pet and security deposits. In the absence of evidence to the contrary, I accept the tenant's testimony.

### **Issues to be Decided**

Is the tenant entitled to the return of the security and pet deposits and the filing fee?

### **Background and Evidence**

The tenant testified that the tenancy began in September 2012 and ended on May 04, 2018. The monthly rent at the start of tenancy was \$1,095.00 due on the first of each month. The tenant testified that she paid a security deposit of \$547.50 and a pet deposit of \$547.50 for a total of \$1,095.00.

The tenant testified that she attended a move out condition inspection on July 10, 2018. The landlord informed the tenant that she would be returning the full amount of the deposits to the tenant, at the forwarding address that the tenant had provided the landlord with, on April 24, 2018.

The tenant stated that the landlord sent her a cheque for \$625.38 instead of the full amount of the deposits. The tenant contacted the landlord and she was informed that a deduction was made for outstanding utility bills. The tenant stated that she had paid all utilities but the landlord would not agree to return the balance of the deposits.

On July 08, 2018 the tenant made this application for the return of her security and pet deposits. The tenant is also claiming the recovery of the filing fee.

### **Analysis**

Section 38(1) of the *Act* provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of the end of tenancy or 15 days after receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposit.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord made a deduction off the deposits and returned only a portion of the deposits to the tenant. The landlord did not have the consent of the tenant to retain a portion of the deposits. In addition the landlord did not make application to retain a portion of the deposits.

Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security and pet deposits.

The landlord currently holds a security deposit of \$547.50 and a pet deposit of \$547.50 and is obligated under section 38 to return double these amounts to the tenant. Accordingly the landlord has to return a total of \$2,190.00 to the tenant. The tenant testified that she has already received \$625.38 from the landlord. Therefore the landlord must return the balance owed in the amount of \$1,564.62.

Since the tenant has proven her case, I grant the tenant the recovery of the filing fee of \$100.00.

Overall the tenant has established a claim of \$1,664.62. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount, which represents double the base security and pet deposits (\$2,190.00) plus the filing fee (\$100.00) minus the amount already returned to the tenant (\$625.38). This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the tenant a monetary order for **\$1,664.62**.

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: November 06, 2018

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Residential Tenancy Branch