



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNSD, FF

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the return of double the security and pet deposits and for the recovery of the filing fee.

Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented herself. The landlord was represented by her agent.

As both parties were in attendance I confirmed service of documents. The tenant stated that she had sent her evidence package to the landlord at the address for service to the landlord but it was returned to her as the landlord had moved. The landlord's agent confirmed that the landlord had moved. The landlord provided her evidence package to the tenant on November 23, 2018 by registered mail and the tenant confirmed having received it just three days prior to the hearing. The tenant agreed that she had read some of it but did not have enough time to respond to it.

This decision was made primarily on the testimony of both parties and using the documentary evidence that both parties agreed to.

### **Issue to be Decided**

Did the tenant provide the landlord with her forwarding address in writing? Did the landlord return the security and pet deposits in a timely manner? Is the tenant entitled to the return of double the deposits? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

Both parties agreed to the following: The tenancy started on August 23, 2017 and ended on June 01, 2018. The monthly rent was \$1,125.00. Both parties agreed that the landlord received \$1,125.00 from the tenant as a security deposit and a pet deposit.

The parties agreed that during and after the tenancy the parties communicated primarily by email, text message and Facebook.

The tenant testified that she sent her forwarding address to the landlord by text message on June 19, 2018, with a request to return the deposits. At first the landlord denied having received the tenant's forwarding address by text message but later agreed that the parties communicated extensively between June 20 and July 27, 2018 by email regarding the return of the deposits. The landlord wanted to retain a portion and the tenant refused to allow her to.

The issue did not get resolved and on July 27, 2018, the tenant made this application. The landlord agreed that she had not made an application to retain all or a portion of the deposit. The landlord has filed evidence to support her position that the tenant left the unit in a condition that required cleaning.

After I determined that the landlord had received the forwarding address of the tenant, I asked her whether she had returned all or part of the deposits or whether she had made application for dispute resolution to retain the deposits. The landlord agreed that she had not taken either action.

### **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.

In this case, the tenant sent the landlord her forwarding address by text message on June 19, 2018. By July 27, 2018, the tenant did not receive her deposits and made this application. Therefore, I find that the landlord failed to repay the deposits or make an application for dispute resolution within 15 days of the receipt of the forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security and pet deposits.

The total security and pet deposits paid was \$1,125.00. Accordingly, the landlord must return \$2,250.00 to the tenant. Since the tenant has proven her case she is also entitled to the recovery of the filing fee of \$100.00.

Overall the tenant has established a claim of \$2,350.00. Accordingly, I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount which represents double the security and pet deposits plus the filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

In regards to the landlord's claims relating to loss that she may have suffered, I am not able to hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application. The landlord is at liberty to file her own application for damages against the tenant.

### **Conclusion**

I grant the tenant a monetary order in the amount of **\$2,350.00**.

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 29, 2018

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Residential Tenancy Branch