



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC MNSD

### Introduction

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

- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the tenant's application and evidence on file.

### Issues

Is the tenant entitled a monetary order for compensation for damage or loss?  
Is the tenant entitled to a return of all or a portion of the security deposit, including double the amount?

### Background and Evidence

The tenancy originally began approximately 12 years ago. The current landlord recently purchased the rental property and began a new agreement with the tenant on February 1, 2017. The monthly rent was \$512.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$246.00 which the landlord continues to retain.

On August 1, 2018, the landlord served the tenants with a Two Month Notice to End Tenancy for Landlord's Use of Property with an effective date of October 1, 2018.

In a previous application, the tenant disputed the Two Month Notice; however, the landlord was granted an order of possession effective October 31, 2018. The tenant vacated the rental unit on this date.

The tenant is claiming the equivalent of one month's rent as compensation for notice to end tenancy for landlord's use of property. The tenant claims she did not get one month free rent under the Act and submitted proof of rent being paid for October 31, 2018.

The tenant is also claiming double the security deposit arguing that the landlord failed to return the security deposit within 15 days of the date the landlord received the tenants forwarding address in writing. The tenant provided the forwarding address to the landlord in writing on November 29, 2019.

The landlord acknowledged that the tenant paid rent up to the end of the tenancy and that she was not provided one month compensation. The landlord acknowledged receiving the forwarding address in writing from the tenant. The landlord argues the security deposit was not returned as the tenant did not leave the building but rather lived with another tenant in the building for some time after vacating her unit.

### Analysis

Section 51 (1) of the Act provides that a tenant who receives a Notice to End Tenancy for landlord's use of property is entitled to receive from the landlord an amount that is equivalent to one month's rent payable under the tenancy agreement.

The landlord has not provided the tenant's with an equivalent of one month's rent. I allow the tenant's claim for an amount equivalent to one month's rent and award an amount of \$512.00.

Section 38 of the Act provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. A landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I find the tenant did provide a forwarding address in writing to the landlord. The tenant's security deposit was not refunded in full within 15 days as required by section 38 of the Act and the doubling provisions of section 38 therefore apply.

I allow the tenants claim for return of the security deposit and award an amount of \$492.00, which is double the original security deposit of \$246.00. The landlord's argument that the tenant moved in with another tenant in the building does not impact the landlord's obligations under the Act with respect to return of a security deposit.

The tenant is awarded a total of \$1004.00.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$1004.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: March 21, 2019

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Residential Tenancy Branch