



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RED DOOR HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT

### Introduction

On March 13, 2019, the Tenants applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing and D.K. attended the hearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that she served each respondent a Notice of Hearing and evidence package by Xpresspost on March 15, 2019 and D.K. confirmed that this was received. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served the Notice of Hearing and evidence package.

D.K. advised that no evidence was submitted by the Landlord for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Tenant entitled to a return of a half month’s rent?
- Is the Tenant entitled to a return of double the security deposit?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on December 1, 2013. D.K. advised that the tenancy ended on February 28, 2019 based on the Tenant's written notice to end the tenancy served to the Landlord near the end of January 2019. The Tenant confirmed that she gave her written notice to end the tenancy towards the end of January, advised that she left the rental unit on February 14, 2019, met the Landlord to participate in the move-out inspection report on February 21, 2019, and returned the keys then. Subsidized rent was established at \$466.00 per month, due on the first day of each month. A security deposit of \$436.50 was also paid.

All parties agreed that the Tenant provided her forwarding address in writing on her notice to end her tenancy given to the Landlord at the end of January 2019. As well, they agreed that the move-out inspection report was conducted on February 21, 2019.

The Tenant is seeking compensation in the amount of **\$233.00** because she left the rental unit on February 14, 2019 and as a result, it is her belief that she should only pay for half the month of rent. She stated that when she made this request to the building manager, she said she "would look into it" and the Tenant believes that this is sufficient permission not to be responsible for the full month of rent. She advised that she did not have any written consent from the Landlord authorizing that she was responsible for only paying for a half month of February 2019 rent.

In addition, the Tenant is seeking compensation in the amount of **\$436.50** because the Landlord did not return her security deposit in accordance with the *Act*. She advised that she called the Landlord on or around March 10, 2019 inquiring about the status of her security deposit and the Landlord advised that it would be mailed. She stated that she received a cheque from the Landlord in the amount of \$436.50 on March 15, 2019 and that this was mailed out on or around March 12, 2019. As it is her belief that her tenancy ended on February 14, 2019, the Landlord was late in mailing this deposit.

D.K. stated that the cheque was dated March 12, 2019 and she assumed that it was mailed this date, but she was not entirely certain of the date. However, it is her position that the tenancy ended on February 28, 2019 and the security deposit was mailed in time pursuant to the *Act*.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 44 of the *Act* outlines how a tenancy ends and more specifically, subsection 1(d) states that the tenancy ends when the “tenant vacates or abandons the rental unit.”

Furthermore, Section 45 of the *Act* states that “A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.”

Based on the undisputed evidence before me, rent was due on the first day of each month and the Tenant gave her written notice to end her periodic tenancy in January 2019. As per Section 45 of the *Act*, the Tenant’s notice to end the tenancy cannot be effective for earlier than February 28, 2019. Despite her insistence that there was a verbal agreement with the building manager to only be responsible for half a month’s rent, I do not find her testimony that the building manager “would look into” the issue to be any compelling acknowledgement of a rent abatement. Regardless, there was no evidence of any written authorization or agreement that the Tenant should only be responsible for half of February 2019 rent. Therefore, I am satisfied that she is responsible for paying the full month of rent for February 2019 regardless of when she left the rental unit. Consequently, I dismiss her claim on this issue in its entirety.

With respect to the security deposit, Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy **or** the date on which the Landlord receives the Tenant’s forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenant, pursuant to Section 38(6) of the *Act*.

Based on the undisputed evidence before me, a forwarding address in writing was provided by the Tenant on her notice to end the tenancy in January 2019. Furthermore, the Landlord and Tenant met on February 21, 2019 to conduct a move-out inspection, that keys were returned then, and that the Tenant gave up vacant possession of the rental unit on this date. Therefore, I am satisfied that the tenancy ended on February 21, 2019 when the Tenant vacated the rental unit, as per Section 44 of the *Act*.

I find it important to note that Section 38 of the *Act* clearly outlines that the Landlord, within 15 days of the end of the tenancy **or** the date on which the Landlord receives the

Tenant's forwarding address in writing, must either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposit. As the consistent evidence is that the tenancy ended on February 21, 2019 and the deposit was mailed on or around March 12, 2019, I find that the Landlord did not return the security deposit in full within 15 days, pursuant to the *Act*. As such, the doubling provisions of Section 38 would apply in this scenario.

Consequently, I find that the Tenant has established a monetary award amounting to double the original security deposit. Under these provisions, I am awarding the Tenant \$873.00; however, as the Tenant has already received a cheque in the amount of \$436.50, I am reducing this monetary award to \$436.50. As such, I grant the Tenant a monetary award in the amount of **\$436.50**.

### Conclusion

The Tenant is provided with a Monetary Order in the amount of **\$436.50** in the above terms, and the Landlord must be served with **this Order** as soon as possible. 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: June 28, 2019

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Residential Tenancy Branch