



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NEWPORT REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MNSD, FF

### Introduction

This is an application by the tenant filed under the Residential Tenancy Act (the “Act”) for a monetary order for return of double the security deposit and the pet damage deposit and the filing fee for the claim.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issue to be Decided

Is the tenant entitled to a monetary order for return of double the Deposits?

### Background and Evidence

The tenancy began on March 2, 2017. Rent in the amount of \$2,575.00 was payable on the first of each month. A security deposit and pet deposit (the “Deposits”) totaling \$2,575.00 were paid by the tenant.

The tenant testified that they vacated the premises on January 31, 2019. The tenant stated that they provided the landlord with a written notice of the forwarding address on

January 31, 2019, as it was written on the move-out condition inspection report. Filed in evidence is a copy of the tenant's forwarding address.

The tenant testified that they gave the landlord written permission to hold the amount of \$500.00 for the estimated amount of utilities.

The tenant testified that they received the return of the Deposits on January 26, 2019, which is not within 15 days of the tenancy ending.

The landlord's agent testified that they return the Deposits to the tenant on January 12, 2019 by mail. Filed in evidence is a copy of the cheque issued to the tenant and a copy of the refund letter.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Return of security deposit and pet damage deposit is defined in Part 2 of the Act.

### **Return of security deposit and pet damage deposit**

38 (1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later** of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must do one of the following:**

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

I accept the evidence of the tenant that they received the return of the Deposits on January 26, 2019; however, the Act does not say it must be received.

In this case, the landlord repaid the Deposits on January 12, 2019, which was within 15 days of the tenancy ending. This is supported by the landlord's documentary evidence. The landlord sent the Deposits by mail, which is a method approved of under section 88 of the Act. The landlord cannot be held responsible for any delay that is caused by the service methods permitted under the Act.

I find the landlord comply with the provisions of section 38 and 88 of the Act. Therefore, I dismiss the tenant's application for the return of double the Deposits. Since the tenant was unsuccessful with their application they are not entitled to recover the filing fee from the landlord.

### Conclusion

The tenant's application for return of double the Deposits is dismissed. The tenant is not entitled to recover the filing fee.

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 10, 2019

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Residential Tenancy Branch