



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD

### Introduction

The tenant applies to recover dump fees, a security deposit doubled pursuant to s. 38 of the *Residential Tenancy Act* (the “Act”) and an amount equivalent to one month’s rent due after receiving a four month Notice to End Tenancy for demolition of the rental unit.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the relevant evidence presented during this hearing show on a balance of probabilities that the tenant is entitled to recovery any of the three items of her claim?

### Background and Evidence

The rental unit is a three bedroom half of a duplex. The tenancy started either in 2008 or 2009. The parties disagree. They do agree that the last tenant, M.s N. De J. moved out June 10, 2019, that the rent was \$1500.00 and that the landlord received a \$750.00 security deposit which has not been returned.

This tenancy ended as the result of a four month Notice to End Tenancy dated and served March 31, 2019. The effective date given in the Notice was May 31, 2019. It is the landlord’s undisputed evidence that he was flexible when the tenant M.s N. De J. left. She could have stayed until August or September he said.

The Notice claimed the landlord intended to demolish the rental unit and it has been demolished.

The tenant says her rental unit was infested with rodents and, as a result she had to discard furniture and bedding at the end of the tenancy and paid \$250.00 for dumping fees.

She says she provided the landlord with a forwarding address in writing June 12, and he has not returned her security deposit or made an application to keep it.

She says she has not received the one month rent equivalent she is entitled to when issued a four month Notice.

The landlord says the tenant reported rodents during the tenancy, he contacted and exterminator and that the exterminator reported back that the rental unit was too full of personal possessions to treat. He says he never heard back from the tenant.

He says the parties had a verbal agreement that he would keep security deposit because the tenant owed him significant rent.

He points to a tenancy agreement filed by the tenant and claims his signature has been forged by her.

### Analysis

The tenant has filed what she alleges to be the original tenancy agreement. It is between Mr. H. and her alone and purports to be dated and signed by both parties on September 1, 2008. It is on the form published by the Residential Tenancy Branch as a standard form of tenancy agreement. Unfortunately, the form used is a form not published until 2011; three years after this document was purported to have been signed. As well, the landlord's first name has been misspelled and his signature is debatably not his, based on other, undisputed documents filed.

The tenant was unable to offer any credible explanation for how this came about.

Based on the foregoing I find that I prefer the evidence of the landlord wherever the testimony of the parties conflicts.

### Dump Fees

The tenant's photos confirm numerous rodent droppings around the house. What is remarkable is that the droppings are so voluminous and are in places obvious and exposed, like window ledges, along the base of walls and in cupboards. The effect of the photos is to make clear that little if any cleaning of those areas was done.

I accept the landlord's evidence that the tenant was told she could leave all garbage and discarded items in the rental unit because it was being demolished and those items would be taken away with the demolition debris at no cost to her. The tenant chose not to take advantage of that offer and I find that she cannot now insist the landlord pay for her dumping costs.

I dismiss this item of the claim.

#### Security Deposit Doubled

Section 38 of the *Act* provides that once a tenancy has ended and once the tenant has provided the landlord with her forwarding address in writing, the landlord then has a 15 day period to either repay the deposit money or make an application for dispute resolution claiming against the deposit.

If a landlord fails to do either, he is subject to the penalty of having to account to his former tenant for double the deposit.

There is a dispute over whether or not the tenant gave the landlord her forwarding address in writing in June. I find that it is of little consequence because clearly, the tenant has served the landlord with her application and that application contains the address to which the landlord could have forwarded the security deposit.

The landlord failed to repay the deposit money. He says he had a verbal agreement with the tenant. That is not sufficient. Section 38(4) permits a landlord to retain only an amount the tenant agrees in writing he may retain.

In result, the landlord has run a foul of s.38 and must account to the tenant for \$1500.00, being. double the deposit.

#### One Month's Rent Equivalent

Section 51(1) of the *Act* provides:

A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

The tenant received a Notice under s. 49 and is entitled to that amount: \$1500.00.

### Conclusion

The tenant is entitled to a monetary award totalling \$3000.00. She has directed that the amount of \$2292.00 be offset as rent owed to the landlord as of the end of the tenancy and so I offset that amount.

This hearing did not make a determination about what amount the tenant owes or owed the landlord for rent. If the landlord is of the view that the tenant owed him more than \$2292.00 as of June 10, 2019, he is free to bring his own application.

The tenant will have a monetary order against the landlord in the amount of the \$708.00 remainder. As none of the other three applicants appear to have been a lawful tenant of the landlord the monetary order will be in the name of Ms. De J. alone.

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: October 21, 2019

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Residential Tenancy Branch