



# 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 pursuant to the *Residential Tenancy Act* for a monetary order for the return of the security deposit and for the recovery of the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves.

As both parties were in attendance, I confirmed service of documents. The landlord confirmed receipt of the tenant's evidence and stated that he did not file any of his own. I find that the landlord was served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

### **Issue to be Decided**

Is the tenant entitled to the return of the security deposit? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The background facts are generally undisputed. The tenancy started on February 05, 2020 and ended on March 30, 2020. The monthly rent was \$750.00 due on the first of each month. There is no written tenancy agreement. The rental arrangements were made by text message. A copy of the conversation by text message was filed into evidence.

Both parties agreed that the landlord received \$750.00 from the tenant as a security deposit. The landlord stated that he provided a receipt for this amount to the tenant explaining that this amount was for the security deposit plus the last month's rent and was non-refundable. The landlord stated that the tenant verbally acknowledged that he agreed that the deposit was non-refundable.

In a text message dated March 02, 2020, the tenant informed the landlord that he could not afford the rent and had decided to move out by the end of March. The tenant requested the return of the deposit and the landlord informed him that he would receive it after a new tenant was found.

The tenant stated that the landlord also informed him that he wanted to wait for the pandemic to end before he took on another tenant. The landlord denied this and stated that he was actively looking for a tenant and had not found a suitable one.

The parties communicated by text message and e-transfers for monetary transactions. By April 15, 2020 the tenant had not received the deposit and made this application.

During this hearing, I offered the parties the option of coming to an agreement to end their dispute. If the parties agreed to the amount of money that would or would not change hands, the landlord did not have to make application for dispute resolution to claim a loss of income, as all matters pertaining to the dispute between these parties at this dispute rental unit address will be fully and finally settled.

The landlord offered the tenant the return of \$750.00 to be paid after he found a new tenant. The tenant rejected the offer.

### **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 moved out on March 30, 2020 and requested the landlord to e-transfer the security deposit to him as was the usual way funds were exchanged by the parties. By April 15, 2020, the tenant did not receive his deposit and made this application.

Therefore, I find that the landlord failed to repay the deposit or make an application for dispute resolution within 15 days of the end of tenancy and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The total security deposit paid was \$750.00 which is currently held by the landlord. Accordingly, the landlord must return \$1,500.00 to the tenant. Since the tenant has proven his case, he is also entitled to the recovery of the filing fee of \$100.00.

Regarding the landlord's claims relating to the loss of income that he 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 his own application for damages against the tenant.

Overall the tenant has established a claim of \$1,600.00. Accordingly, I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount which represents double the security deposit plus the filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the tenant a monetary order in the amount of **\$1,600.00**.

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: May 22, 2020

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Residential Tenancy Branch