



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of double the security deposit (the deposit).

The tenant submitted a copy of an e-mail sent to the landlord on May 12, 2020, containing attachments of the Notice of Direct Request Proceeding and supporting documents.

### Issue(s) to be Decided

Is the tenant entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on September 15, 2017, indicating a monthly rent of \$3,100.00 and a security deposit of \$1,550.00, for a tenancy commencing on October 1, 2017;

- A copy of a notice to vacate dated June 30, 2019, indicating the tenancy would end and providing the forwarding address;
- A copy of a Monetary Order from the Residential Tenancy Branch dated November 29, 2019 in the amount of \$1,450.00;
- A copy of a demand letter from the tenant to the landlord dated January 14, 2019, requesting payment of the Monetary Order no later than January 31, 2020;
- A copy of a Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the Monetary Order and demand letter were placed in the landlord's mailbox at 6:15 pm on January 14, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet) showing the amount of deposit paid by the tenant and indicating that the tenancy ended on July 31, 2019.

### Analysis

*Res judicata* prevents a plaintiff from pursuing a claim that has already been decided and also prevents a defendant from raising any new defense to defeat the enforcement of an earlier judgment.

A previously decided issue is comparable to the criminal law concept of double jeopardy.

The tenant submitted a copy of a Monetary Order issued by an Arbitrator in the amount of \$1,450.00 for the return of the security deposit.

I therefore find that this current application is *res judicata*, meaning the matter of the security deposit has already been conclusively decided and cannot be decided again.

For this reason, the tenant's application for a Monetary Order for the return of double their security deposit is dismissed without leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for a Monetary Order for the return of double the security deposit without leave to reapply.

I dismiss the tenant's application to recover the filing fee paid for this application without leave to reapply.

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 13, 2020

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Residential Tenancy Branch