



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR

### 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 the security deposit (the deposit).

The tenant submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on June 24, 2020, the tenant sent the landlord the Notice of Direct Request Proceeding by e-mail. The tenant provided a copy of the outgoing e-mail containing attachments of the supporting documents to confirm this service.

The Residential Tenancy Branch's Director's Order on e-mail service dated March 30, 2020 was repealed by a subsequent Director's Order dated June 24, 2020. However, section 71(2)(c) of the *Act* enables me to make an order that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this *Act*.

I find that the tenant sent the Notice of Direct Request Proceeding documents to the landlord by e-mail. The tenant submitted a copy of three e-mails sent from the tenant to the landlord between May 29, 2020 and June 24, 2020 discussing tenancy matters. The tenant also submitted a copy of an Interac e-Transfer from the landlord's e-mail address dated May 29, 2020.

I am satisfied that the landlord's e-mail account is currently active and regularly monitored.

For this reason, and in accordance with section 71(2)(c) of the *Act*, I find that the landlord is deemed to have received the Notice of Direct Request Proceeding on June 27, 2020, three days after it was e-mailed.

### 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*?

### Background and Evidence

The tenant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the tenant, indicating a monthly rent of \$500.00 and a security deposit of \$250.00;
- A copy of an e-mail from the tenant to the landlord dated May 29, 2020, providing the forwarding address and requesting the return of the deposit;
- 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 forwarding address was sent to the landlord at 2:55 pm on May 29, 2020;
- A copy of an Interac e-Transfer from the landlord to the tenant in the amount of \$170.00, sent on May 29, 2020 at 3:12 pm; 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, the partial amount reimbursed by the landlord, and indicating that the tenant vacated the rental unit on April 30, 2020.

### Analysis

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

Section 38(6) of the *Act* states that if the landlord does not return the deposit(s) or file a claim against them within the fifteen days, the landlord must pay the tenant double the amount of the deposit(s).

I have reviewed all documentary evidence and I find that the tenant paid a security deposit in the amount of \$250.00 as per the tenancy agreement.

I find that the tenancy ended on April 30, 2020, the date the tenant vacated the rental unit, as indicated on the Monetary Order Worksheet.

I find that the landlord returned a portion of the deposit 17 minutes after receiving the tenant's forwarding address by e-mail. For this reason, I find that the landlord was served with the forwarding address on May 29, 2020.

I accept the following declarations made by the tenant on the Monetary Order Worksheet:

- The tenant has not provided consent for the landlord to keep all or part of the deposit;

- There are no outstanding Monetary Orders against the tenant for this tenancy; and
- The tenant has not extinguished their right to the deposit in accordance with sections 24(1) and 36(1) of the *Act*.

I accept the evidence before me that the landlord has failed to return the full deposit(s) to the tenant and has not filed an Application for Dispute Resolution requesting to retain the deposit(s) by June 13, 2020, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the landlord must pay the tenant double the amount of the security deposit in accordance section 38(6) of the *Act*.

Therefore, as of the date of this application, June 20 ,2020, I find that the tenant is entitled to a monetary award for double the security deposit in the amount of \$330.00, calculated as follows:

Item	Amount
Doubling of the Security Deposit (\$250.00 x 2)	\$500.00
Less portion returned by the landlord	-\$170.00
<b>Total Monetary Award to Tenant</b>	<b>\$330.00</b>

### Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$330.00 for the return of double the security deposit. The tenant is provided with this Order 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: July 06, 2020

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Residential Tenancy Branch