



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FFT

### Introduction

On May 25, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The matter was scheduled as a teleconference hearing. The Tenant and Landlord appeared at the hearing.

The hearing process was explained, and the participants were asked if they had any questions. All participants in the hearing provided 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 to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- is the Tenant entitled to the return of double the security deposit and or pet damage deposit?
- Is the Tenant entitled to recover the cost of the filing fee?

### Background and Evidence

The Tenant and Landlord testified that the tenancy began on December 1, 2019 on a month to month basis. Rent in the amount of \$1,050.00 was due by the last day of each month. The Tenant paid the Landlord a security deposit of \$525.00. The Tenant vacated the rental unit on April 30, 2020.

The Tenant testified that the Landlords did not return the security deposit to her after the tenancy ended.

The Tenant testified that there was no agreement written or otherwise that the Landlord could retain any amount of the security deposit.

The Tenant testified that she provided the Landlord with her forwarding address in writing on May 6, 2020. The Tenant provided documentary evidence that her address was provided to the Landlord on May 6, 2020.

In reply the Landlord provided testimony that she received the Tenant's forwarding address and acknowledged that she did not apply for dispute resolution to keep the security deposit.

The Landlord testified that due the Covid pandemic she is having a difficult time and is making arrangements to pay the Tenant the deposit.

### Analysis

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

Section 38 (1) of the Act states that within 15 days after the later of the date the tenancy ends, and the date the Landlord receives a Tenants forwarding address in writing, the Landlord must repay any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38 (6) of the Act provides that if a landlord does not comply with subsection (1), the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that the Tenant vacated the rental unit on April 30, 2020 and provided her forwarding address to the Landlord on May 6, 2020. I find that the Landlord did not apply to keep the security deposit and did not return it. I find that there was no written agreement from the Tenant that permitted the Landlord to retain the security deposit.

I find that the Landlord breached section 38 of the Act. Pursuant to section 38(6) of the Act, the Landlord must pay the Tenant double the amount of the security deposit.

I order the Landlord to pay the Tenant the amount of \$1,050.00.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I grant the Tenant a monetary order in the amount of \$1,150.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

### Conclusion

The Landlord failed to return the security deposit to the Tenant in accordance with the legislation.

The Tenant is granted double the amount of the security deposit. I grant the Tenant a monetary order in the amount of \$1,150.00.

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: September 28, 2020

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Residential Tenancy Branch