



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNRT, RPP, FFT

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38;
2. A Monetary Order for repairs - Section 67;
3. An Order for the return of the Tenant’s personal property - Section 65; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and evidence (the “Materials”) *in person on August 26, 2020* in accordance with Section 89 of the Act. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to return of the security deposit?

Is the Tenant entitled to compensation for repairs?

Is the Tenant entitled to an order for the return of personal property?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on September 5, 2018 and ended on August 1, 2020. At the outset of the tenancy the Landlord collected \$750.00 as a security deposit. On August 1, 2020

the Landlord only returned \$620.00 of the security deposit. The Tenant has not sent its forwarding address to the Landlord. The Tenant claims return of the remaining security deposit of \$130.00.

During the tenancy the Tenant made repairs to the heating vents as smoke was coming through them and the Tenant was concerned about carbon monoxide. The Tenant complained to the Landlord about the vents and offered to make the repairs. At the onset of the tenancy the Tenant also repaired drywall and painted walls of the unit that had holes and were dirty. The Landlord agreed that the Tenant could make these repairs. The Tenant claims \$200.00. The Tenant does not have receipts for the materials used for these repairs in the amount of \$150.00 and the Tenant seeks only a nominal sum of \$50.00 for its own labour.

The Tenant states that they planted vegetables, such as tomatoes, squash and peppers in the ground during the tenancy and the Landlord had agreed that the Tenant could return after the end of the tenancy to harvest the vegetables however the Parties got into a disagreement on the last day of the tenancy and the Landlord no longer allowed the Tenant back to the unit. The Tenant thinks that the plants should still have their vegetables for another month. The Tenant seeks return of the vegetables.

The Tenant states that during the tenancy the existing doorknob on a bedroom was replaced with new doorknob with a lock. The Landlord agreed to the Tenant putting on the new doorknob as long as the old one was put back in place at the end of the tenancy. Due to the dispute at the end of the tenancy the Tenant was not able to replace the old doorknob. The Tenant subsequently returned the old doorknob to the Landlord and claims return of the new doorknob.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the

landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Tenant did not provide its forwarding address prior to making this application I dismiss the claim for return of the security deposit with leave to reapply should the Landlord fail to deal with the deposit as required after the Landlord's receipt of the forwarding address.

Section 32(1) of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that costs for the damage or loss have been incurred or established. Based on the undisputed evidence that smoke was coming through the furnace vents and that the walls of the unit had holes and were dirty I find that the Tenant has substantiated that the Landlord did not provide or maintain the Tenant with a unit suitable for habitation. However, given the lack of receipts I find that the Tenant has not substantiated that it incurred the material costs claimed and I dismiss this part of the claim. The Tenant is entitled to **\$50.00** in compensation for its labour to repair the unit.

Section 65(1)(e) of the act provides that if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may order that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned. Based on the Tenant's undisputed evidence that there was an agreement for the Tenant to replace the old door knob at the end of

the tenancy, that the Landlord did not allow the Tenant to replace the door knob and as the Tenant returned the old door knob I find that the Tenant is entitled to return of the new door knob. I therefore order the Landlord to return the doorknob within a week of receipt of this decision. Should the Landlord fail to return the door knob the Tenant has leave to reapply for compensation. Based on the undisputed evidence that the Landlord had agreed that the Tenant could harvest its vegetables and then did not allow the Tenant opportunity to harvest those vegetables, I find that the Landlord breached this agreement. Should there be any vegetables still alive on the date the Landlord receives this decision I order the Landlord to either allow the Tenant access to harvest the vegetables or to collect the vegetables and return them to the Tenant. I order the Landlord to allow the access or to return the vegetables within 5 days receipt of this decision. Should the Landlord fail to act as ordered the Tenant has leave to reapply for compensation. As the Tenant's claims, with the exception of the claim for return of the security deposit, have been successful, I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$150.00**.

### Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$150.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: September 28, 2020

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Residential Tenancy Branch