



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD MNDC RPP FF

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held, via teleconference, on June 11, 2021. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing. However, the Landlord did not. The Tenant provided registered mail tracking information to show he sent the Notice of Hearing to the Landlord's residence on March 16, 2021. The Tenant stated that he included his evidence package with this Notice of Hearing. However, he did not submit this evidence to the RTB. The Tenant did not present any rationale as to why he was unable to provide his evidence to the RTB, as required by the Rules of Procedure.

Since the Tenant failed to submit any of his documentary evidence to the RTB, as required by Rule 3.0.1 and 3.0.3, I find it is not admissible. I find the Tenant has failed to explain why he ought to be entitled to more time to submit his evidence. The Tenant chose to proceed with his application in the absence of his documentary evidence, and to provide oral testimony only. Although the Tenant failed to serve his evidence in accordance with the Rules, I find the Tenant sufficiently served his application, and Notice of Hearing to the Landlord. Pursuant to section 89 and 90 of the Act, I find the Landlord is deemed served with the Tenant's Notice of Hearing package on March 21, 2021, five days after it was mailed.

The Tenant stated that the only ground he wishes to pursue on this application, is the return of his security and pet deposit. The Tenant did not wish to pursue the other grounds he applied for, and withdrew his claim for the other items. I hereby amend the Tenant's application accordingly.

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

#### Issue(s) to be Decided

1. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

#### Background and Evidence

The Tenant stated that monthly rent was set at \$1,550.00 and was due on the first of the month. The Tenant stated that he paid a security deposit of \$775.00 and a pet deposit of \$775.00, which the Landlord still holds. The Tenant stated that he moved in around December 1, 2020, and subsequently moved out on February 28, 2021, only 3 months later.

The Tenant stated that after he vacated the rental unit on February 28, 2021, he left a letter in the Landlord's mailbox on March 16, 2021. The Tenant stated that in this letter, he provided the Landlord with his forwarding address, in writing, as well as a request for the return of his deposits. The Tenant stated that no deposits were ever sent back to him, and now he is seeking double the deposits, as a penalty.

The Tenant stated that the Landlord never did a move-in inspection nor was a condition inspection report completed and given to him. The Tenant stated that he did not authorize any deductions from the deposits.

#### Analysis

Based on the undisputed oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, I note the Tenant vacated and abandoned the rental unit on February 28, 2021, which I find reflects the end of the tenancy. The Tenant stated that he hand delivered his forwarding address in writing on March 16, 2021, to the Landlord's mailbox. Pursuant to section 88 and 90 of the Act, I find the Landlord is deemed served with the Tenant's forwarding address in writing on March 19, 2021, the 3<sup>rd</sup> day after it was left in the mailbox.

I note the Tenant did not authorize any deductions from the deposits. It does not appear a move-in inspection was done, along with a properly completed move-in report (which the Tenant should have been provided a copy of) at the start of the tenancy. I find the Landlord extinguished her right to claim against the deposits, for damage, and was required to repay the deposits, in full, or file an application against the deposits (for matters other than for damage to the unit) within 15 days after receiving the Tenant's forwarding address in writing.

As stated above, and pursuant to section 38(1) of the Act, the Landlord had 15 days from receipt of the forwarding address in writing (until April 3, 2021) to either repay the security and pet deposit (in full) to the Tenant or make a claim against it by filing an application for dispute resolution for matters other than for damage to the rental unit. The Landlord did neither and I find the Landlord breached section 38(1) of the Act.

Accordingly, as per section 38(6)(b) of the Act, I find the Tenant is entitled to recover double the amount of the security and pet deposit (\$1,550.00 x 2).

In summary, I issued the Tenant a monetary order for \$3,100.00 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

### Conclusion

I grant the Tenants a monetary order in the amount of **\$3,100.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be 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: June 11, 2021