



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for the return of double the \$1,000.00 security deposit that the Landlord is holding without cause; and to recover the \$100.00 cost of her Application filing fee.

The Tenant and her husband, D.B., and an agent for the Landlord, K.R. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. The Agent said she had received the Application and the documentary evidence from the Tenant and had reviewed it prior to the hearing. The Agent confirmed that the Landlord had not submitted any documentary evidence to the RTB or to the Tenant.

### Preliminary and Procedural Matters

The Tenant provided the Parties' email addresses in the Application; however, the Agent gave me a different email address for sending the Decision to the Landlords. The Parties confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

#### Issue(s) to be Decided

- Is the Tenant entitled to a Monetary Order from the Landlord, and if so, in what amount?
- Is the Tenant entitled to Recovery of the \$100.00 Application filing fee?

#### Background and Evidence

The Parties agreed that the periodic tenancy began on October 1, 2019, with a monthly rent of \$2,000.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$1,000.000, and no pet damage deposit. The Agent confirmed that the Landlord still holds the Tenant's security deposit.

The Tenant submitted a copy of the 30 days' notice of the end of the tenancy that she gave to the Landlord. This notice was signed and dated August 17, 2020, it has the rental unit address, it was served by email on August 17, 2020, with an effective vacancy date of September 30, 2020 ("Notice"). This Notice contains the Tenant's forwarding address and her request for the return of the security deposit.

The Agent said they did not return the security deposit, because, "There was damage to my property." I explained the process for claiming compensation from a tenant via dispute resolution at the RTB.

The Tenant said she sent the Landlords an email letting them know about the rules, but she said she did not receive a response specifically to that statement about the deposit.

#### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

I find that the Tenant provided her forwarding address to the Landlord on August 20, 2020, three days after it was served by email. I find that the tenancy ended on September 30, 2020.

Section 38(1) of the Act states the following about the connection of these dates to a landlord's requirements surrounding the return of the security deposit:

**38 (1)** Except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

The Landlord was required to return the \$1,000.00 security deposit within fifteen days of September 30, 2020, namely by October 15, 2020, or to apply for dispute resolution to claim against the security deposit, pursuant to section 38(1). The Agent provided no evidence that they returned any amount of the security deposit or applied to the RTB for dispute resolution, claiming against the security deposit. Therefore, I find the Landlord failed to comply with their obligations under section 38(1).

Section 38(6)(b) states that if a landlord does not comply with section 38(1) that the landlord must pay the tenant double the amount of the security deposit. There is no interest payable on the security deposit.

I, therefore, award the Tenant **\$2,000.00** from the Landlord in recovery of double the security deposit, pursuant to sections 38 and 67 of the Act. Given that the Tenant was successful in her Application, I also award her recovery of the **\$100.00** Application filing fee for a total award of \$2,100.00.

### Conclusion

The Tenant's claim against the Landlord for return of double the security deposit is successful in the amount of \$2,000.00. The Landlord did not return the Tenant's

\$1,000.00 security deposit or apply for dispute resolution within 15 days of the later of the end of the tenancy and the Landlord receiving the Tenant's forwarding address. I award the Tenant with double the security deposit, plus recovery of the \$100.00 Application filing fee.

I grant the Tenant a Monetary Order under section 67 of the Act from the Landlord in the amount of **\$2,100.00**.

This Order must be served on the Landlord by the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 19, 2021

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Residential Tenancy Branch