



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was scheduled to convene at 1:30 p.m. on July 12, 2022 by way of conference call concerning an amended application made by the tenant seeking a monetary order for return of the security deposit or pet damage deposit.

The tenant and a witness for the tenant attended the hearing, and each gave affirmed testimony. However, the line remained open while the telephone system was monitored for in excess of 10 minutes prior to hearing any testimony, and no one for the landlord joined the call.

The tenant testified that the Notice of Dispute Resolution Proceeding (the Hearing Package) was personally served on the landlord at the landlord's residence with the witness present on November 24, 2021. The tenant has also provided an mp4 video showing the documents being placed in an envelope for service on the landlord. The tenant has not received any evidence from the landlord.

The tenant's witness testified that the witness was present on 2 occasions with the tenant and observed the tenant give papers to the landlord. The landlord answered the door, and didn't want to take the papers from the tenant and was quite rude; not very kind. The tenant dropped the documents at the door. The witness was also present for service of another document to the landlord.

Considering the testimony of the tenant and the tenant's witness, and the evidence contained in the mp4 video, and considering that the landlord has uploaded evidence to the Residential Tenancy Branch case system, I am satisfied that the landlord was personally served with the Hearing Package on November 24, 2021, which is in accordance with the *Residential Tenancy Act*.

Since the landlord has not served the tenant with any evidence and has not joined the hearing, I decline to consider any of the landlord's evidence.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or double the amount of the security deposit?

### Background and Evidence

The tenant testified that this month-to-month tenancy began on December 1, 2019 and ended on September 24, 2021. There is no written tenancy agreement, however rent in the amount of \$1,200.00 was payable on the 1<sup>st</sup> day of each month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$600.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite and the upper level of the home was also tenanted.

The tenant further testified that the landlord had served the tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property which stated that the landlord's son was moving into the rental unit. The Notice was given on July 1, 2021 effective August 31, 2021, however the tenant stayed until September 24, 2021. The landlord did not provide the tenant with any compensation, and the tenant was not aware that it was required. The landlord preferred that the tenant pay in cash, but no receipts were ever given to the tenant.

On September 24, 2021 the tenant personally served the landlord with a note which contained the tenant's name and forwarding address, with the witness present. The tenant has also provided a Proof of Service – Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit (#RTB-41) which sets out that information and contains signatures of the tenant and the tenant's witness.

The landlord has not returned any portion of the security deposit to the tenant and has not served the tenant with an Application for Dispute Resolution claiming against the security deposit.

### Analysis

The *Residential Tenancy Act* is clear: a landlord must either return a security deposit in full to a tenant or apply for dispute resolution to keep it within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding

address in writing. If the landlord fails to do either, the landlord must repay double the amount.

In this case, I accept the undisputed testimony of the tenant and the tenant's witness, along with the Proof of Service document that the landlord received the tenant's forwarding address in writing on September 24, 2021. I also accept the undisputed testimony of the tenant that the tenancy ended on September 24, 2021 and the landlord has not returned any portion of the security deposit to the tenant. The tenant also testified that the landlord has not served the tenant with an Application for Dispute Resolution claiming against the security deposit, and I have no such application before me. Therefore, I find that the landlord must repay the tenant double the amount.

The tenant also testified that the landlord collected a security deposit in the amount of \$600.00, and I accept that. I find that the tenant has established a claim of \$1,200.00.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,200.00.

This order is final and binding and may be enforced.

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 12, 2022

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Residential Tenancy Branch