



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to recover double the security deposit and to recover the cost of the filing fee.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail June 08, 2010. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord was deemed to be served the hearing documents on June 13, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

One of the tenants appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

### Issues(s) to be Decided

- Are the tenants entitled to recover double the security deposit?

### Background and Evidence

The tenant attending testifies that this month to month tenancy started on March 01, 2010 and ended on May 15, 2010. Rent for this unit was \$850.00 per month and was due on the first of

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each month. The tenants paid a security deposit of \$425.00 on March 01, 2010. The tenant testifies that she gave the landlord's her forwarding address in writing on May 14, 2010.

The tenant testifies that they moved from the rental unit May 15, 2010. The tenant testifies that the landlord did not carry out a move in condition inspection of the rental unit at the start of the tenancy, but did do a walk through inspection with the tenant when she noted some additional cleaning she wanted the tenants to do and repair some picture holes in the walls. The tenant states she carried out the additional clean and made repairs to the walls. The landlord then carried out another inspection and found more cleaning that she required the tenants to do. The tenant states the landlord said she would deduct these costs from their security deposit. The tenant states she signed the form to agree that the landlord could keep \$45.00 from the security deposit only. The tenant states she received a cheque from the landlord on May 26, 2010 for the amount of \$235.00. The tenant seeks to recover the remainder of her security deposit and states this should be double as the landlord did not return it within 15 days.

## Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on May 14, 2010. As a result, the landlord had until May 29, 2010, to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord returned \$235.00 of the deposit on May 26, 2010 within the allowable 15 days; however, the landlord did not make an application to keep the reminder of the deposit. I further find the tenant agreed in writing that the landlord could keep \$45.00 of the deposit.

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Consequently, I find that the tenant has established a claim for the return of double the **remainder** of the security deposit pursuant to section 38(6)(b) of the *Act*.

I also find the tenants are entitled to recover the **\$50.00** filing fee from the landlord pursuant to section 72(1) of the *Act*. I find the tenant is entitled to a Monetary Order as follows pursuant to section 67 of the *Act*:

Security deposit	\$425.00
Less amount already returned	(-\$235.00)
Balance of security deposit after deductions	\$145.00
Double the balance of the security deposit	290.00
Filing fee	\$50.00
Total amount owed to the tenant	<b>\$340.00</b>

## Conclusion

I HEREBY FIND in partial favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$340.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: August 23, 2010.

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Dispute Resolution Officer