



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This was the hearing of the tenant's application for the return of his security deposit. The hearing was conducted by conference call. The tenant and the named landlord participated in the hearing.

### Background and Evidence

The tenancy began on October 1, 2009. Monthly rent was \$1,550.00. The tenant paid a \$775.00 security deposit at the commencement of the tenancy. The tenant moved out of the rental unit in the last week of March, 2010. The landlord and the tenant inspected the rental unit together on March 30, 2010. According to the landlord the tenant agreed at the inspection that he was responsible for the cost of some cleaning and painting of a wall in the rental unit. The tenant denied that he agreed that he was responsible for any charges. No condition inspection report was filled out, either at the beginning of the tenancy or at its end. The landlord retained \$175.00 from the tenant's security deposit and refunded the sum of \$600.00.

The landlord testified that the tenant gave his verbal consent to the landlord retaining a portion of the security deposit to pay for the cost to repaint a portion of one wall in the rental unit that was dirty and scratched. The tenant denied giving his consent to the landlord. The landlord acknowledged that he did not obtain the tenant's written permission to keep a portion of the deposit.

Analysis and conclusion

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later.

The tenant provided his forwarding address at the end of the tenancy, but according to the landlord's e-mail it was incomplete. I find that the landlord returned \$600.00 of the \$775.00 deposit within 15 days of receiving the tenants' complete forwarding address, but he withheld the sum of \$175.00 without written consent. The full amount of the security deposit was not refunded within 15 days as required by section 38 and the doubling provision of section 38(6) therefore applies. I find that the tenant is entitled to double the amount of the unpaid security deposit; I grant the tenant's application and award him the sum of \$350.00. No interest has accrued on the original deposit amount. The tenant is entitled to recover the \$50.00 filing fee for this application for a total claim of \$400.00 and I grant the tenant a monetary order in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that Court.