



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of double the security deposit and to recover the filing fee.

The tenant served the landlord by registered mail on May 03, 2010 with a copy of the Application and Notice of Hearing. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Is the tenant entitled to recover double the security deposit?

### Background and Evidence

Both parties agree that this month to month tenancy started on February 10, 2009. Rent for this unit was \$500.00 per month and was due on the first of each month. The tenants paid a security deposit of \$250.00 on February 09, 2009.

The tenant testifies that she moved from the rental unit on July 03, 2009. The tenants testify that the landlord did not carry out a move out condition inspection of the rental unit. The tenant testifies that she gave the landlord her forwarding address in writing on April 04, 2010 and again on April 28, 2010 and requested the landlord to return her security deposit. The tenant testifies



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that the landlord did not return her security deposit to her within 15 days of receiving her forwarding address. The tenant has provided a copy of this letter and the registered mail receipt.

The tenant agrees that she did give the landlord permission in writing to keep \$50.00 for a dent to the floor and \$10.00 for some minor damage to a closet door.

The tenant also seeks to recover the sum of \$8.95 for her mailing costs in sending her application, notice of hearing and evidence to the landlord.

The landlord testifies that the security deposit was withheld as the tenant had caused damage to the rental unit and the landlord states she kept the security deposit to cover these costs. The landlord states she did attend the walk through inspection with the tenant after the tenant had conducted one herself and sent the landlord her findings.

## 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 (plus any interest accrued on the original amount) 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 April 20, 2010, the fifth day after it was mailed pursuant to section 90 (a) of the *Act*. As a result, the landlord had until May 05, 2010 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit or file an application to keep it. Therefore, I find that the tenant has established a claim for the return of double the security deposit less the amount of \$60.00 she agreed in writing that the landlord could keep for damages to the rental unit. The

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remainder of the deposit will be doubled pursuant to section 38 (6)(b) of the *Act*. No interest has accrued on the deposit held for 2009 and 2010.

The tenant has applied to recover \$8.95 for the cost of mailing her application to the landlord. However, I find it was the tenants choose to mail this application and therefore cannot recover this amount from the landlord.

I find the tenant is entitled to a Monetary Order as follows pursuant to section 67 of the *Act*:

Security deposit	\$250.00
Balance of security deposit to be doubled	\$190.00 X 2
Total amount to be returned to the tenant	\$360.00

## 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 **\$360.00**. 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: September 13, 2010.

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Dispute Resolution Officer