



# 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 cross applications by the parties. The tenant filed an application seeking the return of his security deposit. The landlord filed a cross application seeking a monetary claim for lost rent.

The tenant appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me.

Although the landlord was served with notice of the tenant's application and filed a counter claim, the landlord failed to appear for the hearing. As a result, I have dismissed the landlord's claim without leave to re-apply.

### Issues(s) to be Decided

Is the tenant entitled to the return of his security deposit?

### Background and Evidence

The tenant stated that this tenancy began on April 1, 2010 for the monthly rent of \$500.00 and a security deposit of \$250.00 which was paid on April 5, 2010.

The tenant stated that the tenancy ended effective June 20, 2010 but he did over hold in the rental unit for 1 day to July 2010. The landlord did not return the tenant's security deposit.

The landlord and tenant did not complete written move in and move out condition inspection reports.

### Analysis

Based on the testimony and evidence provided, and on a balance of probabilities, I find as follows:

I grant the tenant's application for Dispute Resolution and Order that the landlord return the tenant's security deposit pursuant to section 38(1) of the *Act*.

Section 38(1) of the *Act* requires a landlord to either return a tenant's security deposit or to file an application for Dispute Resolution to retain the security deposit within 15 days of receiving the tenant's forwarding address in writing. Section 38(6) of the *Act* states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the security deposit.

I accept the tenant's evidence that the landlord did not receive a forwarding address until the tenant served the landlord with a copy of the application for Dispute Resolution. The landlord did not return the tenant's security deposit or file an application for Dispute Resolution within 15 days of receiving the tenant's address on the application for Dispute Resolution.

Therefore, I find that the landlord failed to comply with section 38(1) of the *Act* and is required by section 38(6) of the *Act* to return to the tenant double his security deposit plus interest.

I find that the tenant has established a total monetary claim for the sum of **\$500.00**. This sum is comprised of double the security deposit of \$250.00. There was no accumulated interest on the tenant's security deposit.

### Conclusion

The landlord's application is dismissed without leave to re-apply as the landlord failed to appear for the hearing but the tenant did and was ready to respond to the landlord's claim.

The tenant's application has been granted. I have Order the return of the tenant's security deposit and I have also ordered that the landlord pay double the security deposit pursuant to section 38(6) of the *Act* as I am satisfied that the landlord failed to comply with section 38(1) of the *Act*.

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: December 01, 2010.

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Dispute Resolution Officer