



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** MNSD, FF

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit. At the tenant's request, I allow an amendment of her application to include the recovery of the filing fee.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*. The tenant stated that she served the hearing document to the landlord by registered mail and filed a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant was represented by her agent who attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be Decided**

Is the tenant entitled to the return of double the security deposit? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on July 01, 2010 and ended on July 31, 2010. Prior to moving in the tenant paid a security deposit of \$750.00.

The tenant stated that on August 03, 2010, the landlord was provided with the forwarding address of the tenant. The tenant made several unsuccessful attempts to contact the landlord. When the tenant finally made contact the landlord, he informed the tenant that he had sent a cheque in the mail and then later on mailed invoices for repair to the tenant instead of a cheque for the return of the security deposit.

The tenant is claiming the return of double the security deposit.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of the tenant moving out and providing him with a forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the security deposit.

The landlord currently holds a security deposit of \$750.00 and is obligated under section 38 to return double this amount. Accordingly the tenant has established a claim in the amount of 1,500.00.

Since the tenant has proven her case, she is entitled to the filing fee of \$50.00.

Overall the tenant has established a claim of \$1,550.00 which consists of double the security deposit plus the filing fee. I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court

### **Conclusion**

I grant the tenant a monetary order for **\$1,550.00**

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 13, 2010.

---

Dispute Resolution Officer