



# 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 the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant only. The landlord did not attend.

The tenant confirmed that he served the landlord with notice of this hearing on August 3, 2010 via registered mail and subsequently with his evidence on December 2, 2010. I accept the landlord has been served sufficiently for this hearing.

### Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for all or part of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on October 5, 2009 as a month to month tenancy for a monthly rent of \$700.00 due on the 1<sup>st</sup> of the month with a security deposit of \$350.00 paid in October 2009. The tenancy ended when the tenant moved out of the rental unit on May 22, 2010 after paying rent for the full month of May, 2010.

The tenant testified that the landlord told him that they would be retaining \$75.00 from the security deposit for cleaning the bathroom, the tenant agreed with the deduction and expected the landlord to provide a refund of \$275.00.

The tenant acknowledges that the landlord provided him with a cheque in the amount of \$275.00 dated June 15, 2010 but to date he has not been able to cash this cheque and he has provided documentation from the landlord's bank confirming they cannot cash the cheque but cannot provide reasons because of their privacy agreement.

### Analysis

Section 38(1) of the *Act* stipulates a landlord must, within 15 days of the end of the tenancy and receipt of the tenants forwarding address, return the security deposit less any mutually agreed upon deductions or file an Application for Dispute Resolution to claim against the security deposit.

Section 38(6) goes on to say that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the amount of the security deposit.

I accept the landlord provided the tenant with a section within 15 days of the end of the tenancy but as the tenant as not been able to cash this cheque because the landlord's bank refuses to honour I find the landlord has not complied with Section 38(1) of the *Act*.

I accept the tenant agreed to allow the landlord to retain \$75.00 from the original \$350.00 security deposit leaving a balance of \$275.00 owed to the tenant to be repaid within 15 days of the end of the tenancy and receipt of the tenant's forwarding address.

### Conclusion

For the reasons noted above, I find that the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$600.00** comprised of \$550.00 double the amount of the security deposit and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced 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: December 22, 2010.

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Dispute Resolution Officer