



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes:** MNSD, MNDC, FF

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and for 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*, sent via registered mail on October 15, 2010. The tenant filed a receipt with a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issue 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 June 15, 2010 and ended on August 31, 2010. The monthly rent was \$850.00 and the tenant paid a security deposit of \$425.00 plus a key deposit of \$50.00. The move out inspection was conducted by the landlord in the presence of the tenant on August 28, 2010. The tenant agreed to a deduction of \$90.00 off the amount owed to her.

The tenant gave the landlord her forwarding address in writing along with her notice to end tenancy and again on August 28, 2010. The tenant made several unsuccessful attempts to contact the landlord for the return of \$385.00. On October 14, 2010, the tenant filed this application and later that day she received a cheque from the landlord in the amount of \$360.00. The tenant had not cashed the cheque at the time of the hearing.

### **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 receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount owed to the tenant.

The landlord currently holds \$385.00 and is obligated under section 38 to return double this amount to the tenant. Since the tenant has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. Overall the tenant has established a claim of \$820.00.60 which which represents double the amount owed to her plus the filing fee.

### **Conclusion**

The cheque issued by the landlord that is currently in the tenant's possession may be stale dated and accordingly I will grant the tenant her full entitlement and order her to return or destroy the cheque that she currently holds. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for **\$820.00**. This order may be filed in the Small Claims Court 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: February 16, 2011.

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Residential Tenancy Branch