



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      MNSD

### Introduction

This was an application by the tenant for a monetary order in the amount of her security deposit. The hearing was conducted by conference call. The tenant participated in the hearing, but the landlord did not attend although he was personally served with the application and Notice of Hearing.

### Issue(s) to be Decided

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

### Background and Evidence

The rental unit is a suite in the landlord's house. The tenancy began on May 1, 2009. Monthly rent was \$650.00 payable on first day of each month. The tenant paid a security deposit of \$325.00 on May 1, 2009.

The tenant moved out on March 1, 2010. She testified that she gave the landlord her forwarding address and tried to contact him by telephone several times to request her security deposit but he has not responded. The tenant filed her application for dispute resolution on October 15, 2010. She testified that she personally served the landlord with the application and Notice of Hearing at the landlord's house within a day or two of receiving her filed application and hearing package. As of the date of the hearing the landlord has not responded and has not returned her security deposit.

The landlord did not file an application for dispute resolution to claim the deposit.

### Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord

must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

The tenant did not claim payment of double the amount of her deposit and she did not provide evidence to show that she provided the landlord with her forwarding address in writing. Based on the tenant's testimony at the hearing I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*.

I accept the tenant's evidence that the landlord has refused to respond to her requests and has not returned her deposit. The landlord did not attend this hearing and in the absence of any evidence from the landlord, I allow the tenant's application for a monetary order in the amount of \$325.00 being the amount of the deposit paid at the commencement of the tenancy, but I do not make an award of double the deposit because it was not requested and because the tenant did not provide proof that she gave the landlord her forwarding address in writing. No filing fee was paid for this application and I decline to award a filing fee. I grant the tenant a monetary order under section 67 in the amount of \$325.00. This order may be registered in the Small Claims Court and enforced as an order of that Court.

Dated: February 09, 2011.

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