



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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 and the landlord.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for double the amount 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, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties both submitted a copy of a tenancy agreement signed by the parties on March 4, 2011 for a 6 month fixed term tenancy beginning on April 1, 2011 that converted to a month to month tenancy on October 1, 2011 for a monthly rent of \$1,100.00 due on the 1<sup>st</sup> of each month with a security deposit of \$550.00 paid.

The parties agree the tenancy ended on April 30, 2012 and that the tenant provided the landlord with his forwarding address in writing on the same date. The landlord testified that the address was written on a small piece of paper that looked like the back of a receipt and that she subsequently lost the address.

The landlord went on to say that the tenant's cell number had changed and she had no way to get in touch with the tenant. She acknowledges that the tenant did leave her a message once and that he met with her on May 15, 2012 but it was not until she received the tenant's Application for Dispute Resolution and hearing documents towards the end of May 2012 that she got his address again.

The landlord testified that she had not returned the security deposit because she had asked the tenant to complete a list of repairs that she has submitted into evidence before she would return the deposit and the tenant failed to complete the list. The tenant stated that he met with the landlord but it was earlier than May 15, 2012.

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

I find, based on the testimony of both parties that the tenant provided the landlord with his forwarding address on April 30, 2012. Despite the landlord's testimony that she lost the paper on which the address was written, Section 38 requires the landlord return the deposit or file an Application for Dispute Resolution, in this case, no later than May 15, 2012.

Even if I were to consider the landlord was not able to contact the tenant or forwarding the security deposit because she had lost the address, I note that she acknowledged in the hearing that she received again when the tenant served her with notice of this hearing. Again the landlord neither returned the deposit nor filed an Application for Dispute Resolution to claim against the deposit.

For these reasons, I find the landlord has failed to comply with Section 38(1) of the *Act*.

### Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,150.00** comprised of \$1,100.00 double the security deposit amount and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: July 23, 2012.

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Residential Tenancy Branch