



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD, FF

### **Introduction**

This hearing was convened in response to an application by the tenant under the *Residential Tenancy Act* (the Act) for a monetary order for the return of the security deposit and compensation under section 38. The application is inclusive of an application for recovery of the filing fee for the cost of this application.

Both the tenant and the landlord were represented at today's hearing

### **Issue(s) to be Decided**

Is the tenant entitled to double the security deposit amount claimed?

### **Background and Evidence**

The relevant undisputed facts before me by both parties are as follows.

The tenancy began in March 2010 and ended on May 01, 2012. The landlord collected a security deposit of \$240.00 at the outset of the tenancy. There was no move in inspection conducted at the outset, nor is there a record of an inspection. There was no move out inspection conducted at the end of the tenancy nor is there a record of an inspection. Regardless, the landlord testified that on May 01, 2012 they received and were in possession of the tenant's forwarding address in writing, given to them by the tenant on a printed document. The landlord testified they attempted to mitigate the administration of the security deposit by talking with the tenant but were not able to do

so. The landlord testified they determined to file their own application but were not confident they could rely on the forwarding address the tenant provided.

### **Analysis**

It must be noted that in this matter it was confirmed to both parties that the address provided by the tenant to the landlord as their forwarding address is the tenant's forwarding address for the purposes of the Act.

On preponderance of the evidence I have reached a decision.

**Section 38(1)** of the Act provides as follows (**emphasis for ease**)

38(1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must** do one of the following:

38(1)(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

I find that the landlord failed to repay the security deposit, or to make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing and is therefore liable under section 38(6) which provides:

38(6) If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The landlord currently holds a security deposit of \$240.00 and was obligated under section 38 to return this amount. The amount which is doubled is the \$240.00 original amount of the deposit. As a result I find the tenant has established an entitlement claim for **\$480.00** and is further entitled to recovery of the **\$50** filing fee for a total entitlement of **\$530.00**.

### **Conclusion**

I grant the tenant an Order under section 67 for the sum of **\$530.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This Decision is final and binding on both parties.

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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