



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

MNSD, FF

### **Introduction**

This hearing was convened by way of conference call in response to the tenant's application to recover double the security deposit; and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on May 11, 2012. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenants agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

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

Is the tenant entitled to recover double his security deposit?

### **Background and Evidence**

The tenant's agent testifies that this month to month tenancy started on October 08, 2011 and ended on November 25, 2011. There was a verbal agreement to pay a

monthly rent of \$850.00 which was due on the first day of the month. The tenant paid a security deposit of \$425.00 on October 08, 2011.

A previous hearing was held on April 05, 2012 to deal with the same issues and the tenant was given leave to reapply as the landlords name had been entered incorrectly.

The tenant's agent testifies that the tenant did not give the landlord written permission to keep all or part of the security deposit.

The tenant's agent testifies that the tenant gave the landlord his forwarding address in writing on December 16, 2011 with the letter sent to the landlord. The tenant has provided a copy of this letter in evidence and the envelope showing the tenants forwarding address. The tenant's agent testifies that the letter was posted to the landlord on December 16, 2011. The tenant's agent testifies that this letter also attempted to resolve the issues regarding the security deposit and in which the tenant's agent explains the landlord's obligations and the tenant's right to the return of the security deposit. The tenant's agent's letter also outlines the consequences to the landlord if the security deposit is not returned to the tenant.

The tenant's agent testifies that they had no response from the landlord and so the tenant seeks to recover double the security deposit of \$850.00 and the \$50.00 filing fee.

### **Analysis**

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on December 21, 2011 five days after posting. As a result, the landlords had until January 05, 2012 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord did not return the security deposit and has not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit to the sum of **\$850.00** pursuant to section 38(6)(b) of the *Act*.

I also find the tenant is entitled to recover the **\$50.00** filing fee from the landlords pursuant to section 72(1) of the *Act*.

### **Conclusion**

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$900.00**. The order must be served on the respondents and is enforceable through the Provincial Court 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 06, 2012.

---

Residential Tenancy Branch