



# 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 an application by the tenant for an order for the return of double the security deposit and for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

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

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

### **Background and Evidence**

The tenancy began on August 01, 2011 for a fixed term of one year. Prior to moving in, the tenant paid a deposit of \$600.00. The tenant moved out on May 31, 2012. Prior to moving out the tenant found a tenant to take over her lease, with the approval of the landlord.

The tenant stated that she gave the landlord her forwarding address on a piece of paper on the day that she moved out. The landlord denied having received the tenant's forwarding address and the tenant did not have documentary evidence to prove that she had given the landlord her forwarding address, in writing.

The tenant made a minor amendment to her current address on file. The landlord was informed that as of this date she has the tenant's forwarding address in writing. The landlord filed detailed evidence in support of her claim for a monetary order for repairs, strata fines and cleaning.

### **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.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, the tenant failed to prove that she had provided the landlord with her forwarding address in writing and is therefore not entitled to the return of double the security deposit. However, the landlord now has the tenant's forwarding address and must within 15 days of receipt of this decision, return the security deposit plus the applicable accrued interest to the tenant or make an application to retain all or a portion of the security deposit.

In regards to the landlord's claim relating to loss that she may have suffered, I am not able to either hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application. That being said, I must point out that the landlord is at liberty to make a separate application for dispute resolution and to resubmit her evidence.

### **Conclusion**

The tenant's application is dismissed with leave to reapply. Since the tenant has not proven her case, she must bear the cost of filing her application.

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: August 16, 2012.

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Residential Tenancy Branch