



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDC, 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 agent.

### 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

Both parties have provided copies of a tenancy agreement but they differ on some of the terms. Both agreements show a tenancy beginning on December 1, 2011 for a monthly rent of \$1,225.00 payable on the 1<sup>st</sup> day of each month with a security deposit of \$612.50 paid.

The tenant submits that she provided her forwarding address to the landlord when she completed the move out inspection with the onsite agent for the landlord on August 31, 2012. The landlord's agent who attended the hearing testified that he has no record of receiving the tenant's forwarding address until she served them with her Application for Dispute Resolution documents.

The landlord's agent testified that once they received the tenant's Application and notice of hearing that they decided to wait until the hearing to explain their claim to retain the deposit.

### 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.

While the landlord disputes receiving the tenant's forwarding address on the last day of the tenancy and in the absence of the onsite manager to provide any testimony to this issue, I find, based on the balance of probabilities, that the tenant did provide her forwarding address to the landlord's onsite agent on August 31, 2012.

However, even if the address was not provided on that date I find the landlord was made aware of the tenant's forwarding address in her Application for Dispute Resolution and still did not return the security deposit or file an Application of their own to claim against the deposit.

I find the landlord received the tenant's forwarding address on August 31, 2012 and as such the landlord had until September 15, 2012 to either return the tenant's security deposit in full or file an Application for Dispute Resolution to claim against the deposit. I find the landlord has failed to meet either requirement and the tenant is therefore entitled to return of double the security deposit.

### Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,275.00** comprised of \$1,225.00 double security deposit 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: December 11, 2012.

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Residential Tenancy Branch