



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD, FF

### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the tenant seeking an order for the return of the security deposit retained by the landlord.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

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

Is the tenant entitled to the return of the security deposit pursuant to section 38 of the Act?

### **Background and Evidence**

The tenancy began on February 1, 2011 and a security deposit of \$725.00 had been paid.

The tenancy ended on September 30, 2012 and the landlord confirmed that the tenant provided a written forwarding address around that date.

The parties testified that the landlord returned a portion of the tenant's security deposit, but retained \$300.00 for costs.

The tenant testified that the landlord failed to return the deposit within 15 days after the tenancy ended and the written forwarding address had been provided, and they are claiming a refund of double the security deposit retained in the amount of \$600.00 plus the \$50.00 cost of the application.

### **Analysis**

Section 38 of the Act provides that a security deposit or pet damage deposit must be refunded to the tenant within 15 days after the end of the tenancy and the date that the forwarding address was received, whichever is later.

In the alternative, according to the Act, if the landlord seeks to retain the deposit to satisfy a debt or damages, the landlord is required to make a claim against a security deposit by filing an application for Dispute Resolution within 15 days after the end of the tenancy and the date that the written forwarding address was received, whichever is later.

I accept the undisputed testimony verifying that that the written forwarding address was received by the landlord on, or around September 30, 2012 and that the landlord retained \$300.00 of the tenant's security deposit.

Based on the evidence and the testimony, I find that, at the end of the tenancy, the tenant did *not* give the landlord written permission to keep the deposit, nor did the landlord subsequently make any application seeking an order to keep the deposit.

Section 38(6) provides that, if a landlord does not comply with the Act by refunding the deposit or making application to retain it within 15 days, the landlord may not make a claim against the security deposit, and must pay the tenant double the amount of the security deposit.

In the matter before me, I find that, under section 38, this tenant is entitled to be paid double the remaining security deposit of \$300.00 and the required refund would therefore total \$600.00 plus the \$50.00 cost of filing the dispute resolution application.

I hereby issue a monetary order for \$650.00 in favour of the tenant. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### **Conclusion**

The tenant is successful in her application and is awarded a monetary order for the remaining unpaid funds, representing double the security deposit.

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: February 13, 2013

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Residential Tenancy Branch