



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, OLC, 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 an agent for the landlord.

The landlord's agent identified at the outset of the hearing that the party named by the tenant on his Application was the resident manager of the property but not the landlord. With agree of the tenant I amended the tenant's Application to show the correct landlord name.

### 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

The parties agreed the tenancy began on September 1, 2011 as a 6 month fixed term tenancy that converted to a month to month tenancy on March 1, 2012 for the monthly rent of \$750.00 due on the 1<sup>st</sup> of each month with a security deposit of \$375.00 and a pet damage deposit of \$250.00 paid. The tenancy ended on November 1, 2012. The tenant testified he provided the landlord with his forwarding address in writing on November 1, 2012 when he completed the move out inspection.

The tenant provided a copy of an unsigned cheque from the landlord to the tenant dated November 27, 2012 in the amount of \$625.00 and noted as: "Refund SD # 16". The landlord's agent attended the hearing and testified that the resident manager had told her that he had not heard anything from the tenant and so they were unaware that the cheque was unsigned until they received the tenant's evidence. The landlord testified the tenant is entitled to the return of the deposit.

The tenant submits that he had attempted to contact the resident manager several times in November and December 2012 but calls were not returned.

### 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.

From the undisputed testimony I accept the landlord had the tenant's forwarding address by November 1, 2012 and as such must have returned the deposit in full or submitted an Application for Dispute Resolution to claim against the deposit no later than November 16, 2012 to comply with Section 38(1).

Even if the cheque provided by the landlord had been signed it is dated November 27, 2012 and would therefore have not been within the 15 days required by Section 38(1). As such, I find the tenant is entitled to double the amount of both deposits.

I also order that the tenant return the landlord's unsigned cheque of November 27, 2012 in the amount of \$625.00 to landlord at the address provided on the cheque and as confirmed as the correct address by the landlord's agent.

### Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,300.00** comprised of \$750.00 double the security deposit; \$500.00 double the pet damage 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: March 18, 2013

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Residential Tenancy Branch

