



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlords were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

### Background and Evidence

The following are undisputed facts: The tenancy began on October 15, 2010 and ended on July 31, 2012. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$800.00. A move-in and move-out inspection was not offered by the Landlord or completed by the Landlord and Tenants. The Tenant provided the forwarding address in writing on January 31, 2013. The Landlord has not returned the security deposit and has not made an application for dispute resolution to claim for damages to the unit.

The Landlord states that the security deposit was retained for damages to the unit. The Tenant states that return of double the security deposit was not being waived.

### Analysis

Section 23 of the Act requires that upon the start of a tenancy, a landlord and tenant must together inspect the condition of a rental unit on the possession date for that unit, or on another mutually agreed date. Section 24(2) of the Act further provides that where a Landlord does not complete and give the tenant a copy of a condition inspection report, the right to claim against that deposit for damage to the residential property is extinguished.

As the Landlord failed to complete a condition inspection, I find that the Landlord's right to claim against the security deposit is extinguished.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit.

As the Landlord failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Landlord is required to pay the Tenant double the security deposit in the amount of **\$1,600.00**. The Tenant is also entitled to return of the **\$50.00** filing fee for a total entitlement of **\$1,650.00**.

### Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$1,650.00**. If necessary, this order may be filed in the Small Claims Court and 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: May 07, 2013

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Residential Tenancy Branch

