



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNSD, FF

### **Introduction**

This hearing was convened upon the application of the tenants seeking a monetary order for the return of double the security deposit. The total sum sought by the tenants in their application is \$900.00.

All parties appeared at the hearing and gave evidence under oath.

### **Issue**

Is the tenant entitled to the sums sought?

### **Background Summary**

The evidence of the tenant is that he paid a security deposit of \$550.00 on or about April 2011. This tenancy ended on April 1, 2012 and the tenant provided his forwarding address in writing to the landlord in October or November 2012. The tenant testified that he did agree to a \$150.00 deduction from his deposit however, to date, none of the deposit has been returned to him.

The landlord acknowledged receiving the tenant's forwarding address by way of registered mail sent to him on October 4, 2012. The landlord testified that he did not return the security deposit upon the tenant's request because there are outstanding sums owing. The landlord testified that he sent an email to the tenant with respect to these outstanding issues however he did not file an application with the Residential Tenancy Branch seeking to retain the tenant's deposit.

### **Findings**

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either

return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord **must** pay the tenant double the amount of the deposit (section 38(6)).

The evidence shows that the landlord did not return the tenant's deposit or make an application seeking to retain it. I therefore find that the landlord did not comply with Section 38 and he must therefore pay the tenant double the deposit.

The original deposit totaled \$550.00. At the hearing of this matter the tenant testified that he agreed to a deduction of \$150.00. I will therefore deduct this sum from the original deposit and double the balance remaining of \$400.00. As the tenant has been successful in this application I will also award recovery of the \$50.00 filing fee as requested for a total monetary award in favour of the tenant of \$850.00.

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: June 04, 2013

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Residential Tenancy Branch

