



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNSD

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) An Order to return double the security and pet damage deposits pursuant to Section 38;

### **SERVICE**

The landlord did not attend the hearing. The tenant provided evidence that he had served the landlord with the Application for Dispute Resolution by registered mail and personally by email with his forwarding address. I find the registered mail was unclaimed by the landlord by April 29, 2013 although several notices were left. I find the application is deemed to be served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

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

Has the tenant proved on the balance of probabilities that he is entitled to the return of double the security and pet damage deposits according to section 38 of the Act?

### **Background and Evidence**

Only the tenant attended the hearing and was given opportunity to be heard, to present evidence and make submissions. The tenant said he had paid a security deposit of \$550 in September 2011 and a pet damage deposit of \$250 in October 2011. He vacated the unit and returned keys on March 9, 2013 and provided his forwarding address in writing by email on March 14, 2013. By email on March 14, 2013, the landlord said he would send both deposits to the tenant's new address.

The tenant's deposits have never been returned and he gave no permission to retain any of it. The tenant further said that he had to put stop payments on his post dated cheques for the landlord had not returned them either. He requests double his deposits back as provided in section 38 of the Act.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

The Residential Tenancy Act provides:

**Return of security deposit and pet damage deposit**

*38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of (a) the date the tenancy ends, and*

*(b) the date the landlord receives the tenant's forwarding address in writing, the landlord must do one of the following:*

*(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;*

*(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.*

*(6) If a landlord does not comply with subsection (1), the landlord*

*(a) may not make a claim against the security deposit or any pet damage deposit, and*

*(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.*

In most situations, section 38(1) of the Act requires a landlord, within 15 days of the later of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address in writing, to either return the deposit or file an application 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 security deposit (section 38(6)).

I find the evidence of the tenant credible that he paid \$550 security deposit plus \$250 pet damage deposit; this is confirmed by the lease and the landlord's emails. I find he gave the landlord his forwarding address in writing on March 14, 2013 and vacated on March 9, 2013. I find he gave no permission for the landlord to retain the deposits and has not received the refund of his deposits. I find the tenant entitled to recover double his security and pet damage deposits.

**Conclusion:**

I find the tenant entitled to a monetary order as calculated below. No filing fee is involved. I find him entitled to recover filing fees for this Application.

Original Security deposit	550.00
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Original Pet Damage Deposit	250.00
Double original deposits	800.00
Filing fee	50.00
Total Monetary Order to Tenant	1650.00

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 13, 2013

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Residential Tenancy Branch

