



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, 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 Landlord 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?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed facts: The tenancy began in July 2010 and ended on April 30, 2013. At the outset of the tenancy, the Landlord collected a security deposit from three co-Tenants in the amount of \$740.00. A move-in inspection and report was not completed by the Landlord and Tenants. The Tenant provided the forwarding address on March 8, 2013 by registered mail.

The Landlord states that \$323.85 in total was returned to the Tenant and the remainder was retained for various costs from each Tenant such as cleaning and utilities. No receipts were provided to the Landlord for this return of funds. The Tenant states that

only \$120.00 was returned. It is noted that the Tenant's application claims that \$466.52 has not been returned.

The Tenant stated at the hearing 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.

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 make an application for dispute resolution claiming against the security deposit, and 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 **\$1,480.00**. Noting the amount claimed by the Tenant in the application indicates that the Landlord returned more than \$120.00, I prefer the Landlord's evidence that a total of \$323.85 was returned. I therefore reduce the Tenant's entitlement of \$1,480.00 by **\$323.85** and find that the Tenant is entitled to return of the remaining **\$1,156.15**. The Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,206.15**.

Conclusion

I Grant the Tenant an Order under Section 67 of the Act for the amount of **\$1,206.15**. 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 Act.

Dated: June 25, 2013

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Residential Tenancy Branch

