



# 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 by way of conference call in repose to the tenant's application for the return of double the security deposit and to recover the filing fee from the landlords for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Residential Tenancy Act* ( *Act*), sent via registered mail on May 07, 2013. Mail receipt numbers were provided in the tenant's documentary evidence. The landlord is deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the tenant entitled to recover double the security deposit?

### Background and Evidence

The tenant testifies that this month to month tenancy started on either August 15 or September 15, 2010 and ended on April 01, 2013. Rent for this unit was \$600.00 raising

to \$750.00 per month by the end of the tenancy. Rent was due on the first day of each month in advance. The tenant paid a security deposit of \$300.00 on August 15, 2010.

The tenant testifies that the landlord did not complete either a move in or a move out condition inspection report at the start or end of the tenancy. The tenant testifies that she did not give the landlord permission to keep all or part of the security deposit and the landlord has not returned the security deposit to the tenant within 15 days of receiving the tenants forwarding address in writing. The tenant has provided a registered mail tracking document and a copy of the letter sent to the landlord with the tenants forwarding address. This document was sent to the landlord on April 11, 2013 and is deemed to have been received five days after posting.

The tenant testifies that although she has claimed double the security deposit of \$600.00 on this application the tenant would like to now amend this and waive her right to recover double the security deposit. The tenant states that all she wants to recover from the landlord is the original amount of the deposit paid of \$300.00.

### Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on April 16, 2013 (five days after posting pursuant to s. 90 of the *Act*). As a result, the landlords had until May 01, 2013 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find

the landlord did not return the security deposit and have not filed an application for Dispute Resolution to keep the deposit. Therefore, I find that the tenant has established a claim for the return of double the security deposit pursuant to section 38(6)(b) of the *Act*. However as the tenant has amended her claim and waived her right to have the security deposit doubled then the tenant will receive a monetary award for the amount of \$300.00.

I also find the tenant is entitled to recover the **\$50.00** filing fee from the landlords pursuant to section 72(1) of the *Act*. The tenant is entitled to a Monetary Order as follows:

Security deposit	\$300.00
Filing fee	\$50.00
<b>Total amount due to the tenant</b>	<b>\$350.00</b>

### Conclusion

I HEREBY FIND in favor of the tenant's amended monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$350.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: July 18, 2013

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Residential Tenancy Branch

