



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The tenant applied for the return of double his security deposit.

The tenant, the tenant's advocate, and a witness for the tenant, appeared at the teleconference hearing and gave affirmed testimony. During the hearing the tenant, the tenant's advocate, and the witness for the tenant presented their evidence.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The tenant's advocate testified that she served the Notice of Hearing and the tenant's evidence on the landlord in person at the landlord's residence on May 16, 2013 at 4:30 p.m. The tenant's advocate stated that the landlord was not happy and "swore" at her after being served. I find the landlord was sufficiently served in accordance with the *Act* on May 16, 2013.

### Issue to be Decided

- Is the tenant entitled to the return of double his security deposit under the *Act*?

### Background and Evidence

A month to month verbal tenancy agreement began on December 15, 2012 and ended on April 30, 2013 when the tenant vacated the rental unit. Monthly rent in the amount of \$500.00 was due on the first day of each month. A security deposit of \$200.00 was paid by the tenant at the start of the tenancy.

The tenant testified that on April 30, 2013, the day he vacated the rental unit, he served the landlord personally with his written forwarding address, the address of which is his

advocate who was present at the hearing, PE. The tenant stated that his mother, RS, witnessed him serve the landlord with his written forwarding address on April 30, 2013.

The tenant's witness, RS, was called as a witness. Witness RS, stated that she was with her son on April 30, 2013 in the afternoon outside of the landlord's residence when her son handed the landlord his written forwarding address. Witness RS stated that the landlord was not happy when he received the written forwarding address from her son and stuffed the piece of paper in his shorts while he was outside doing yard work.

The tenant's advocate, PE, testified that she has not received anything from the landlord since the tenant served him with his written forwarding address on April 30, 2013. The tenant testified that he is seeking the return of double his security deposit under the *Act* as the landlord failed to return his security deposit. The tenant stated that he did not give the landlord permission to retain any portion of his security deposit.

The tenant stated that the landlord did not conduct a move-in condition inspection report or a move-out condition inspection report with him or request that an inspection be completed.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Analysis

Based on the documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Tenant's claim for the return of double his security deposit** – I accept that the tenancy ended on April 30, 2013. Section 38 of the *Act* applies which states:

### **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.**

[emphasis added]

In the matter before me, **I find** that the landlord did not repay the security deposit or make an application for dispute resolution claiming against the security deposit. Given the above, **I find** the landlord breached section 38 of the *Act* by failing to return the security deposit to the tenant within 15 days of receiving the forwarding address of the tenant in writing on April 30, 2013, having not made a claim towards the security deposit. Therefore, **I find** the tenant is entitled to the return of double the original security deposit of \$200.00 for a total of **\$400.00**. I note that the security deposit has accrued \$0.00 in interest since the start of the tenancy.

**Monetary Order** – I find that the tenant has established a total monetary claim in the amount of **\$400.00**, comprised of the \$200.00 security deposit which has been doubled under the *Act*. **I grant** the tenant a monetary order pursuant to section 67 of the *Act* in the amount of **\$400.00**. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

I grant the tenant double his security deposit due to the landlord's breach of section 38 of the *Act*. I grant the tenant a monetary order under section 67 in the amount of \$400.00. This order must be served on the landlord, and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: August 20, 2013

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Residential Tenancy Branch

