



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Exclusive Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenants 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 on July 1, 2010 and ended on June 1, 2013. At the outset of the tenancy, the Landlord collected a security deposit from the Tenants in the amount of \$375.00. The Parties mutually conducted a move-in inspection however the landlord did not offer the Tenant an opportunity to conduct a move-out inspection. The Tenant provided the forwarding address in writing on June 6, 2013. The Landlord did not file an application for dispute resolution to make a claim against the security deposit and has not returned the security deposit.

The Tenant claims return of double the security deposit as provided under the Act.

### Analysis

Section 35 of the Act requires that upon the end of a tenancy, a landlord and tenant must together inspect the condition of a rental unit. Section 36 of the Act provides that where a landlord does not offer the tenant two opportunities to conduct a move-out inspection, the right to claim against that deposit for damage to the residential property is extinguished. Based on the agreed evidence of the Parties that no move-out inspection opportunity was offered to the Tenant, I find that the Landlord's right to claim against the security deposit for damages to the unit 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's right to make an application to claim against the security deposit was extinguished at the end of the tenancy and as the Landlord 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 **\$750.00**. The Tenant is also entitled to return of the \$50.00 filing fee for a total entitlement of **\$800.00**.

### Conclusion

I Grant the Tenant an Order under Section 67 of the Act for **\$800.00**. 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: September 12, 2013

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Residential Tenancy Branch

