



# 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 a conference call in response to an application made by the tenant for the return of all or part of the pet damage and security deposit and to recover the filing fee from the landlord for the cost of this application.

The tenant filed this application and served the landlord by registered mail with a copy of the application and Notice of Hearing documents. The Canada Post tracking number was provided as evidence for this method of service. Section 90 of the *Residential Tenancy Act* (referred to as the 'Act') states that a document served by mail is deemed to have been received five days later. Based on this, and in the absence of any evidence from the landlord to dispute this, I find that the landlord was served the hearing documents as required by the Act.

The tenant attended the hearing to give affirmed testimony and also provided documentary evidence in advance of the hearing. There was no appearance by the landlord, despite being served notice of this hearing in accordance with the Act. All of the testimony and documentary evidence submitted by the tenant was carefully considered in this decision.

### Issue(s) to be Decided

Is the tenant entitled to the return of double the amount of the security deposit?

### Background and Evidence

The tenant testified that the tenancy started on September 1, 2011 for a fixed term of one year after which it continued on a month to month basis. Rent in the amount of \$900.00 was payable on the first day of each month by the tenant.

The tenant testified that the landlord collected a total of \$1,350.00 in deposits on August 11, 2011 which comprised of \$450.00 in a security deposit and \$900.00 as a pet damage deposit. The tenant testified that the landlord charged him double the amount for the pet damage deposit because he had two pets. The tenant provided a receipt showing the total amount of the deposits paid.

The tenant testified that the tenancy ended when he gave the landlord notice to leave on February 28, 2013. The tenant testified that shortly afterwards the landlords claimed that there was damage to the unit and as a result refused to return the deposits.

The tenant testified that he provided the landlord with a forwarding address on July 17, 2013 by registered mail. The Canada Post tracking number and the letter with the forwarding address was provided as evidence. The tenant testified that the landlord failed to pick up the letter so he sent the forwarding address again on August 14, 2013. On this occasion the tenant testified the landlord received this letter on August 15, 2013 as evidence by the Canada Post tracking report provided as evidence.

The tenant testified that he moved address on September 1, 2013 and again provided his new forwarding address to the landlord. However, he was having his mail from the previous address forwarded to him to the new address just in case the landlord sent the deposits to the old address which the tenant had provided to the landlord.

The tenant testified that the landlord had failed to return any of the deposits to him and as a result claims double the amount back from the landlord.

### Analysis

The tenant provided a copy of the receipt which shows the landlord took \$1,350.00 in deposits from the tenant and I accept this was the amount paid by the tenant.

Section 38(1) of the *Residential Tenancy Act* states that, within 15 days of the landlord receiving the tenant's forwarding address in writing after the tenancy ends, the landlord must repay the security deposit or make an application to claim against it. The tenant testified that the tenancy ended on February 28, 2013. In the absence of any disputed testimony from the landlord, I accept that the tenancy ended on this date.

The forwarding address was provided to the landlord in writing on three separate occasions. Based on the tracking report provided by the tenant which shows that the landlord received this on August 15, 2013 I find the tenant served the forwarding address in writing to the landlords in accordance with the *Act* and as a result the

landlord failed to return to deposits to the tenant or make an application to keep the deposits within the timelines stipulated by the *Act*.

Section 38(6) of the *Act* states that if a landlord does not comply with the above, the landlord must pay the tenant double the amount of the deposits. Therefore, the tenant is entitled to the return of double the amount of the \$1,350.00 deposits already paid totaling \$2,700.00.

As the tenant has been successful in this monetary claim, I also award the tenant the \$50.00 filing fee for the cost of this application for a total amount of \$2,750.00.

### Conclusion

For the reasons set out above, I grant the tenant a monetary order under section 67 of the *Act* in the amount of \$2,750.00. This order must be served on the landlord and may then 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 *Residential Tenancy Act*.

Dated: October 21, 2013

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Residential Tenancy Branch

