



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD, FF

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the return of double the security deposit and the recovery of the filing fee.

The landlord's agent attended the hearing and requested an adjournment as the landlord had to leave the country, to attend his mother's funeral. The agent had in his possession, documents from the landlord regarding the tenant's application. I explained to the agent that I would conduct the hearing in the landlord's absence and if necessary, the hearing would be adjourned. Both parties were given full opportunity to present evidence and make submissions.

### **Issues to be Decided**

Is the tenant entitled to the return of double the security deposit? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on March 01, 2012 and ended on February 28, 2013. Prior to moving in the tenant paid a security deposit of \$175.00.

The tenant provided the landlord with a request for the return of his security deposit in the amount of \$175.00. This request was written in a letter which included the tenant's forwarding address. The letter was mailed to the landlord by registered mail on March 04, 2013. The tenant provided a tracking number. During the hearing, I informed the parties that I would check the tracking number and did so. The tenant's testimony was confirmed that he mailed the letter on March 04, 2013 and that it was picked and signed for by the landlord on March 07, 2013.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

Based on the sworn testimony of both parties, I find that the landlord was notified of the tenant's forwarding address on March 07, 2013. I further find that the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address.

Therefore, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord currently holds a security deposit of \$175.00 and is obligated under section 38 to return double this amount along with the accrued interest of \$0.00. Since the tenant has proven his case, he is also entitled to the recovery of the filing fee of \$50.00.

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for **\$400.00**, which represents double the base security deposit and the filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the tenant a monetary order in the amount of \$400.00.

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 03, 2013