



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding red Door Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

Given the Tenant’s evidence of having sent the application by registered mail and noting that the Landlord provided evidentiary submissions in response to the Tenant’s application, I find that Landlord was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlord did not attend. The Tenant was 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 amount claimed?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on October 1, 2012 and ended on July 31, 2013. At the onset of the tenancy, the Landlord collected \$490.00 as a security deposit. No move-in condition inspection was conducted and at the end of the tenancy the Landlord offered one opportunity for an inspection which the Tenant was unable to attend. No second opportunity was provided however the Tenant met the Landlord on August 1, 2013 at

the unit and signed a move-out report providing the forwarding address on the report. The Tenant does not recall any notations in relation to any deductions on the signed report although the Tenant agreed to pay \$50.00 for the cost of cleaning the unit. The Tenant did not inspect the unit with the Landlord as the Landlord only instructed the Tenant to sign the move-out report. The Tenant states that she received a cheque from the Landlord on August 27, 2013 for \$182.75. The Tenant claims return of double the security deposit.

### Analysis

Section 23 of the Act requires that upon the start of a tenancy, a landlord and tenant must together inspect the condition of a rental unit on the possession date for that unit, or on another mutually agreed date. Section 24(2) of the Act further provides that where a Landlord does not complete and give the tenant a copy of a condition inspection report, the right to claim against that deposit for damage to the residential property is extinguished. Based on the undisputed evidence of the Tenant I find that no move-in inspection was conducted or completed by the Landlord and that the Landlord's right to claim against the security deposit for damage 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 failed to return the security deposit to the Tenant and did not make an application to claim against the security deposit within 15 days of the provision of the forwarding address, I find that the Tenant is entitled to double the security deposit of \$490.00 plus zero interest in the amount of **\$980.00**. The Tenant is also entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$1,030.00**. Given the Tenant's evidence that a deduction of **\$50.00** is agreed to for cleaning and that the Tenant received **\$182.75**, I reduce the total entitlement by these amounts leaving **\$747.25** owed by the Landlord to the Tenant.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$747.25**. 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 *Residential Tenancy Act*.

Dated: November 28, 2013

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Residential Tenancy Branch

