



# 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 by way of conference call in response to the tenant's application for a Monetary Order to recover the security deposit.

The tenant and landlord attended the conference call hearing, gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing.

### Issue(s) to be Decided

Is the tenant entitled to a Monetary Order to recover double the security deposit?

### Background and Evidence

The parties agree that this tenancy started on August 20, 2012 for a month to month tenancy. The tenancy ended on July 01, 2013. Rent for this unit was \$1,500.00 per month and was due on the first day of each month in advance. The tenant paid a security deposit of \$750.00 on August 05, 2012. The parties also agree that the landlord did not do an inspection report at the start and end of the tenancy. The tenant gave the landlord their forwarding address in writing on May 29, 2013 when the tenant provided written Notice to end the tenancy.

The tenant testifies that the landlord has failed to return the security deposit within 15 days of the tenancy ending. The tenant testifies that he did not give the landlord written permission to keep all or part of the security deposit. The tenant seeks to recover double the security deposit.

The landlord testifies that the tenant failed to leave the rental unit in a clean condition and had failed to repair some damage to the unit, site and property. The landlord testifies that the security deposit does not cover the landlord's costs and the landlord has retained the security deposit towards these costs.

### Analysis

Section 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Sections 23(4), 35(3) of the *Act* require a landlord to complete a condition inspection report at the beginning and end of a tenancy and to provide a copy of it to the tenant even if the tenant refuses to participate in the inspections or to sign the condition inspection report. In failing to complete the condition inspection reports when the tenants moved in and out, I find the landlord contravened s. 23(4) and s. 35(3) of the *Act*. Consequently, s. 24(2)(a) and s. 36(2)(a) of the *Act* says that the landlord's right to claim against the security deposit for damages is extinguished.

When a landlord's right to claim against the security deposit has been extinguished a landlord is not entitled to file a claim to keep the security deposit and if the deposit has not been returned to the tenants within 15 days of either the end of the tenancy or the

date the tenants give the landlord their forwarding address in writing the landlord must pay double the security deposit to the tenants.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on May 29, 2013 and the tenancy ended on July 01, 2013. As a result, the landlord had until July 16, 2013 to return the tenant's security deposit. As the landlord failed to do so, the tenant has established a claim for the return of double the security deposit to an amount of **\$1,500.00** pursuant to section 38(6)(b) of the *Act* even though the tenant has not applied for it. There has been no accrued interest on the security deposit for the term of the tenancy.

### Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$1,500.00**. The order must be served on the Respondent and is enforceable through the Provincial Court 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 05, 2013

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Residential Tenancy Branch

