



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the tenant for return of double the security deposit. All parties appeared and had an opportunity to be heard.

### Issue(s) to be Decided

Is the tenant entitled to the relief requested?

### Background and Evidence

This month-to-month tenancy started May 1, 2013 and ended July 31, 2013. The monthly rent of \$950.00 was due on the first day of the month. The tenant paid a security deposit of \$475.00 and a pet damage deposit of \$100.00. A move-in inspection was conducted and move-in condition inspection report completed.

A move-out inspection was conducted on August 4 and although a copy of it was not filed in evidence the tenant testified that a move-out condition inspection report was completed and given to her.

The tenant testified that she gave her new address verbally to the landlords but never in writing, except on this application for dispute resolution. The tenant also testified that since filing her application for dispute resolution she had moved again and she provided her new mailing address.

Although the landlords filed evidence in support of a claim against the security deposit they never filed their own application for dispute resolution actually making a formal claim against the security deposit.

### Analysis

Section 38(1) of the *Residential Tenancy 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 either repay the security deposit to the tenant or file an application for dispute resolution claiming against the deposit. Section 38(6) provides that if a landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit.

The only time the tenant provided her forwarding address in writing to the landlords was when she served them with this application for dispute resolution. As the legislation could be interpreted as requiring a tenant to provide the landlord with their forwarding address in writing prior to filing their application for dispute resolution it would be unfair to apply section 38(6) at this time. The tenant's application for payment of double the security deposit is premature.

However, in the hearing the parties were advised that the landlords do now have the tenant's forwarding address and they have 15 days from the date of the hearing to file their application for dispute resolution claiming against the security deposit or they risk the imposition of the section 38(6) penalty. In this case, the landlords were advised to serve any application for dispute resolution at the new address provided by the tenant in the hearing.

The tenant's application is dismissed with leave to re-apply if the landlords do not file an application for dispute resolution claiming against the security deposit within the required time.

#### Conclusion

The tenant's application is dismissed with leave to re-apply if the landlords do not file an application for dispute resolution claiming against the security deposit within the required time.

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: December 02, 2013

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Residential Tenancy Branch

