



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

The tenant served the landlord with a copy of the application and Notice of Hearing documents by registered mail. The tenant provided the Canada Post tracking number and indicated that the landlord had refused to accept the documents. Section 90 of the *Residential Tenancy Act* (referred to as the Act) states that a document served in this way is deemed to have been received 5 days after such mailing. A refusal to accept or pick up registered mail documents is not sufficient to avoid service or file an Application for Review. As a result, I find that the tenant served the hearing documents to the landlord as required by the Act.

The tenant appeared for the hearing and provided affirmed testimony and documentary evidence in advance of the hearing. There was no appearance for the landlord or any evidence submitted in advance of the hearing, 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

- Did the landlord receive the tenant's forwarding address in writing?
- Is the tenant entitled to double the amount of the security deposit?

### Background and Evidence

The tenant testified that he could not recall the exact date the tenancy started but it was during June or July of 2012 on a month to month basis. The tenant testified that he paid the landlord a security deposit of \$212.50 before the tenancy began which the landlord

still retains. The tenant testified that the monthly rent payable at the start of the tenancy was \$425.00 which then increased to \$450.00, payable on the first day of each month.

The tenant left the tenancy at some point in June, 2013 and made a request to the landlord for the return of his security deposit. The tenant then provided the landlord with his forwarding address by registered mail on October 5, 2013. A copy of the forwarding address letter and the Canada Post Tracking number was provided as evidence for the hearing.

The tenant testified that he was renting a bedroom from the landlord who was effectively subletting the room to him under the written tenancy agreement. The tenant did not provide a copy of the tenancy agreement as he stated that this was retained by the landlord who did not provide him with a copy.

The tenant testified that the landlord has failed to return the security deposit to him.

### Analysis

Section 38(1) of the Act states that, within 15 days of the landlord receiving the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application to claim against it.

The tenant testified that after the tenancy had ended, he provided the landlord with a forwarding address in writing by registered mail on October 5, 2013. As a result, I find that the tenant provided the landlord with a forwarding address in writing as required by the Act. As it was served by the tenant using registered mail, under the Act, it is deemed to have been received by the landlord on October 10, 2013. Therefore, the landlord had until October 25, 2013 to either return the tenant's security deposit or make an application, neither of which the landlord did.

Section 38(6) of the Act states that if a landlord does not comply with the above requirements in relation to the return of a security deposit, the landlord must pay the tenant double the amount. Therefore, I find that the tenant is entitled to \$425.00 in monetary compensation.

As the tenant has been successful in this matter, I also award the tenant the filing fee of \$50.00 for the cost of this application for a total award of \$475.00.

Conclusion

For the reasons set out above, I grant a Monetary Order in the amount of **\$475.00** in favor of the tenant pursuant to Section 67 of the Act. This order must be served on the landlord and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if the landlord fails to make payment in accordance with the tenant's instructions.

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 30, 2013

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Residential Tenancy Branch

