



# 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 the tenant's Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by the tenant and her translator

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on November 19, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the landlord on the 5<sup>th</sup> day after it was mailed.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit; for compensation for cleaning and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

### Background and Evidence

The tenant testified the tenancy began on March 1, 2013 as a month to month tenancy for a monthly rent of \$830.00 due on the 1<sup>st</sup> of each month with a security deposit of \$415.00 paid. The tenancy ended on October 29, 2013.

The tenant provided photographic evidence of her serving the landlord with her forwarding address in writing on November 1, 2013. The tenant submits the landlord has not yet returned her deposit.

The tenant also seeks compensation in the amount of \$100.00 for additional cleaning that the landlord required her to complete such as the outside of windows.

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the undisputed testimony of the tenant I find that the landlord had until November 17, 2013 to either return the deposit in full to the tenant or to file an Application for Dispute Resolution to claim against the deposit to comply with Section 38(1).

As I have no evidence before me that the landlord has filed an Application for Dispute Resolution claiming against the deposit and based on the tenant's undisputed testimony I find the landlord has failed to comply with Section 38(1) and the tenant is entitled to double the amount of the deposit pursuant to Section 38(6).

As to the tenant's claim for compensation for additional cleaning, I find that the tenant was not required under the *Act* to clean external windows. However, the tenant did not have to comply with the landlord's request to complete additional cleaning but when she did she failed to assert her rights on her own accord. As such, I dismiss this portion of her claim

### Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$880.00** comprised of \$830.00 double the amount of the security deposit and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: March 06, 2014

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Residential Tenancy Branch

