



# 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 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.

I accept the Tenant's evidence that the 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 hearing. 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 return of the security deposit and recovery of the filing fee?

### Background and Evidence

The tenancy began on September 1, 2013 and ended on November 30, 2013. Rent of \$680.00 was paid monthly and directly to the Landlord. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$330.00. It is unknown whether there is a written tenancy agreement however the tenancy consisted of a bedroom and shared access to the remainder of a unit that was rented by the Landlord from a 3<sup>rd</sup> party for some years prior. The Tenant provided its forwarding address in writing and in person to the Landlord at the end of the tenancy. The Landlord has refused to return the security deposit and has not made an application for dispute resolution to claim against the security deposit.

### Analysis

Section 2 of the Act provides that the Act applies to tenancy agreements defined as agreements, whether written or oral, express or implied, between a landlord and a tenant

respecting possession of a rental unit, use of common areas and services and facilities. The Act defines a rental unit as living accommodation rented or intended to be rented to a tenant. Based on the undisputed evidence of an oral agreement for the possession of, and accommodation in a room, use of an area common to both Parties, payment of rent and collection of a security deposit, I find that the Tenant has substantiated that the Act applies to the oral agreement.

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 make an application for dispute resolution claiming against the security deposit, and failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Landlord is required to pay the Tenant double the security deposit in the amount of **\$660.00**. The Tenant is also entitled to return of the \$50.00 filing fee for a total entitlement of **\$710.00**.

#### Conclusion

I Grant the Tenant an Order under Section 67 of the Act for **\$710.00**. 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: June 18, 2014

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Residential Tenancy Branch

