



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNDC, MNSD, FF

### Introduction

This hearing dealt with an application by the tenant for the return of his security deposit, for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and to recover the RTB filing fee.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Is the tenant entitled to the return of his security deposit?

Is the tenant entitled to money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement?

### Background and Evidence

The parties agree the tenancy started in approximately February 2012 and ended December 19, 2013. The tenant was obligated to pay rent of \$1,400.00 monthly in advance on the first day of the month. The tenant also paid a security deposit of \$700.00 and a pet deposit of \$700.00.

The tenant gave evidence that he did a move-out inspection with the landlord's agent on December 19, 2013 and the landlord's agent returned the \$700.00 pet deposit to him then. The tenant's evidence is that the landlord's agent had concerns about the rental unit washing machine, and said he would speak with the landlord about it.

The tenant's evidence is that he provided his forwarding address to the landlord in writing a few weeks later, in approximately mid-January 2014.

The landlord gave evidence that he received the tenant's forwarding address in writing. He does not remember the date he received it, but agreed it was prior to February 6, 2014 (the date the tenant filed his application). The landlord did not file an application for dispute resolution to make a claim against the security deposit.

### Analysis

The process for the return of security deposits is set out in Section 38 of the Act. Pursuant to Section 38(1), the landlord must either repay the security deposit or apply for dispute resolution to make a claim against the security deposit within 15 days of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing (whichever is later). Alternatively, pursuant to Section 38(4)(a), a landlord may retain all or part of a security deposit if the tenant agrees in writing.

In this case, I find the tenancy ended on December 19, 2013. The tenant provided his forwarding address in writing some time after that. I accept the landlord's evidence that he had received the tenant's forwarding address in writing before February 6, 2014. The landlord did not apply for dispute resolution to make a claim against the security deposit within 15 days of February 6, 2014. Also, the tenant did not agree in writing to the retention of any part of the security deposit. The landlord is therefore obligated to return the entire security deposit to the tenant.

According to Section 38(6), a landlord who fails to follow Section 38(1) must pay the tenant double the amount of the security deposit. In this case, the landlord failed to repay the tenant the amount of \$700.00 from his security deposit. The tenant is therefore entitled to an order for twice that amount, which is \$1,400.00. The tenant is also entitled to recover his RTB filing fee of \$50.00 from the landlord.

There is no interest payable on a security deposit or pet deposit held from February 2012 until December 2013, pursuant to Regulation 4 (because interest rates were very low during this period).

I grant the tenant an order under Section 67 for \$1,450.00. This order may be filed in Small Claims Court and enforced as an order of that Court.

### Conclusion

I grant the tenant a monetary order for \$1,450.00.

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 13, 2014

