



# 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 amended application by the tenant for a Monetary Order for the return of the security deposit and compensation under Section 38. I accepted the tenant's preliminary withdrawal of their application of compensation of one month's rent and this portion of the application is **dismissed**. The application is inclusive of an application for recovery of the filing fee for this application.

Both, the tenant and the landlord were represented at today's hearing. The landlord acknowledged receiving the evidence of the tenant and that they had not submitted any evidence. The parties were permitted to present any relevant testimony. The parties were also provided opportunity to discuss their dispute with a view to settling all matters. The hearing proceeded on the merits of the tenant's application.

### **Issue(s) to be Decided**

Is the tenant entitled to double the monetary amounts claimed?

### **Background and Evidence**

The undisputed relevant facts of the parties before me are as follows.

The tenancy ended February 28, 2014 by mutual agreement. At the outset of the tenancy the landlord collected a security deposit of \$262.50, which they retain in trust. The parties did not agree as to the administration of the security deposit at the end of the tenancy. The landlord testified that on or near April 14, 2014 they received the

tenant's forwarding address in writing by registered mail. The tenant requested its return, and the landlord determined to retain the security deposit in lieu of certain deficiencies of the tenancy, and did not file an application for Dispute Resolution.

### **Analysis**

On preponderance of the relevant evidence for this matter, I have reached a decision.

**Section 38(1)** of the Act provides as follows (**emphasis added**)

**38(1)** Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must** do one of the following:

38(1)(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

38(1)(d) file an application for dispute resolution to make a claim against the security deposit or pet damage deposit.

I find that the landlord failed to repay the security deposit, or to make an application for dispute resolution within 15 days of receiving the tenant's forwarding address in writing on or near April 14, 2014 and is therefore liable under section 38(6) which provides:

**38(6)** If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The landlord currently holds a security deposit of \$262.50 and was obligated under Section 38 to return this amount. The amount which is doubled is the original amount of

the deposit. As a result I find the tenant has established an entitlement claim for \$525.00 and is further entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$550.00**.

**Conclusion**

**I grant** the tenant a Monetary Order under Section 67 of the Act for the sum of **\$550.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding on both parties.**

*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: September 10, 2014

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Residential Tenancy Branch

