



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This was an application by the tenant for a monetary order for a refund of rent paid and for the return of her security deposit including double the deposit amount. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend. The tenant served the landlord with the application for dispute resolution and Notice of Hearing by registered mail sent on August 21, 2014.

### Issue(s) to be Decided

Is the tenant entitled to the return of her security deposit including double the amount?  
Is the tenant entitled to a refund of rent paid?

### Background and Evidence

The rental unit is a house in Prince George. The landlord, who rented the house from the owner, sublet rooms to individuals including the tenant. The landlord lived in the house and shared common areas of the rental property with the tenant and other occupants. The tenant responded to an internet advertisement and agreed to rent a room in the rental property commencing September 1, 2013. There was no written tenancy agreement. The tenant paid a security deposit of \$275.00 at the start of the tenancy and paid monthly rent of \$550.00 on the first of each month.

The tenant testified that her relationship with the landlord became acrimonious culminating in the landlord telling the tenant by e-mail and text messages that she should move out of the rental unit. The tenant moved out of the rental unit on January 12, 2014. She requested the return of her security deposit and a refund of the balance of rent paid for January in the amount of \$372.58. The landlord responded by text message and said that she would send back the security deposit but would not repay any portion of the rent paid for January.

The tenant made several requests for payment, but the landlord did not refund any amount to the tenant. The tenant sent a request for the return of her security deposit to the landlord by registered mail sent on January 31, 2014. The letter was returned to the tenant unclaimed by the landlord. The tenant sent a further letter to the landlord by registered mail dated March 10, 2014, again requesting the return of her deposit and refund of rent paid; it too was returned unclaimed.

The tenant filed this application on August 20, 2014 and sent it to the landlord by registered mail to a new address that she learned was the landlord's current address. Shortly before the hearing of this application, the tenant sent an e-mail to the landlord advising her of this hearing and enclosing copies of documents as attachments. The landlord acknowledged receipt of the tenant's e-mail and replied, saying that she would not attend the hearing.

### Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenant provided the landlord with her forwarding address in writing, and I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*.

After reviewing the communications between the landlord and the tenant and hearing the tenant's testimony, I find that the tenant was justified in moving out of the rental unit on January 12, 2014 in response to the landlord's demand that she leave and I find that the tenant is entitled to the refund of pro-rata rent for the remainder of the month in the amount of \$372.58 as claimed. The tenant's security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award her the sum of \$550.00, being double the amount of the deposit. The tenant is entitled to recover the \$50.00 filing fee for this application for a total claim of \$972.58 and I grant

the tenant a monetary order against the landlord in the said amount. This order may be registered 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: February 20, 2015

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Residential Tenancy Branch

