



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an application by the tenant seeking the return of double the security deposit and the recovery of the filing fee. Both parties participated in the conference call hearing. Both parties confirmed that the tenants' evidence was submitted to the landlords in accordance with the Rules of Procedure and Section 89 of the Act. Both parties gave affirmed evidence.

### Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

### Background, Evidence

The tenants' testimony is as follows: The tenancy began on August 15, 2009 and ended on September 29, 2012. The tenants were obligated to pay \$1237.60 per month in rent in advance and at the outset of the tenancy the tenants paid a \$1000.00 security deposit. The tenant stated that he sent his forwarding address in writing to the landlord by registered mail on September 23, 2013. The tenant stated that he has received \$650.00 from the landlord. The tenant stated that he did not agree to have the landlord withhold any of the security deposit.

The landlords' testimony is as follows: The landlords stated that they received the tenants forwarding address on September 28, 2013. The landlord stated that the tenant damaged a closet in the suite. The landlords stated that there was an agreement with the tenant that they withhold a portion of the security deposit.

### Analysis

The tenant has submitted documentary evidence for this hearing, the landlord has not. The tenant said he is applying for the return of double the security deposit as the landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (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;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

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

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

As the landlord did not file an application for dispute resolution or return the security deposit to the tenant as outlined above, the tenant is entitled to the return of double the security deposit  $\$1000.00 \times 2 = \$2000.00$  minus \$650.00 that the tenant has already received for an amount of \$1350.00. The tenant is also entitled to the recovery of the \$50.00 filing fee.

### Conclusion

The tenant has established a claim for \$1400.00. I grant the tenant an order under section 67 for the balance due of \$1400.00. 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: April 21, 2015

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Residential Tenancy Branch

