



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNSD

### Introduction, Preliminary and Procedural Matter

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for a return of his security deposit, doubled.

The tenant and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, the tenant confirmed that he had not provided documentary evidence in support of his application. The landlord submitted that he had faxed to the Residential Tenancy Branch ("RTB") documentary evidence, on February 26, 2015, at 2:30 p.m., which was a copy of a bank draft in the amount of the tenant's security deposit; however, that evidence was not before me at the hearing. Near the conclusion of the hearing, each party submitted that they could fax to me a document showing the bank draft. I allowed each party to submit their evidence after the hearing, and I note that both parties complied.

The parties were informed that if I could make a final decision on the tenant's application based upon their oral evidence and the evidence sent after the hearing, I would do so. If not, the parties were advised that I would reconvene the hearing.

I also note that the landlord submitted that the tenant had not properly served him with his application for dispute resolution when he dropped off the application with a family member; however, as the landlord appeared at the hearing and had reviewed the tenant's application, I did not dismiss the tenant's application, with leave to reapply, or grant an adjournment of the hearing.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to a return of his security deposit, and that this amount should be doubled?

Background and Evidence

I heard testimony from the tenant, which was undisputed by the landlord, that this tenancy began in December 2013, ended in March 2014, monthly rent at the time was \$550.00, and the tenant paid a security deposit of \$250.00.

The tenant at first stated that he “believed” he provided the landlord with his written forwarding address in December 2014, or “something like that”. The tenant submitted later that he provided his written forwarding address to the landlord via registered mail in December, and provided the tracking number of the registered mail. The tenant failed to provide a date the registered mail was sent.

The tenant contended that he had not received his security deposit from the landlord.

In response, the landlord submitted that he had sent the tenant a bank draft in the amount of \$280.00, which is \$30.00 more than the tenant’s security deposit. In explanation, the landlord submitted that the tenant had taken so long to provide his forwarding address after the tenancy ended, the landlord added \$30.00 for interest.

The landlord submitted that he sent the bank draft to the address provided by the tenant, via regular mail, and the mail has not been returned to him.

In response, the tenant confirmed receipt of the mail from the landlord, but that it was a copy of the bank draft.

As to the parties’ evidence received after the hearing, the landlord submitted a copy of a money order made payable to the tenant, dated January 1, 2015, with the explanation that it was a “damage” deposit return.

The tenant submitted a copy of the same monetary order.

Analysis

Under section 38(1) of the Act, a landlord is required to either return a tenant’s security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant’s forwarding address in writing and the end of the tenancy.

Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of their security deposit.

In the case before me I find that the landlord had received the tenant's written forwarding address, but I also find the tenant failed to submit sufficient evidence to show upon what date he did so. It is clear the landlord received the forwarding address, as there was no dispute that the tenant received mail from the landlord afterwards, by the end of January 2015.

Although the tenant stated that the landlord sent just a copy of this monetary order, which was not actually a bank draft, I was not convinced. I find the landlord submitted detailed, compelling evidence of the dates and times he sent not only the tenant the money order, but proof of this monetary order to the RTB.

I also relied upon the fact that the tenant failed to mention in his application or initial testimony that he had received any mail from the landlord, and it was not until after the landlord testified about sending the security deposit that the tenant allowed that he had received mail. Further, the tenant submitted insufficient evidence as to what, if anything, he did to follow up with the landlord or the bank to inquire why he would have received only a copy of the money order.

Overall, I prefer the evidence of the landlord, as he presented consistent, detailed evidence and I found that the tenant presented unclear, inconsistent evidence.

I therefore find that the landlord complied with his obligation under the Act of returning the tenant's security deposit, and as the tenant provided no evidence as to when he sent his forwarding address, I can only conclude that the landlord did so within 15 days.

As I find the landlord properly returned the tenant's security deposit, I dismiss the tenant's application for its return, in double the amount.

#### Conclusion

The tenant's application is dismissed.

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: July 26, 2015

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Residential Tenancy Branch

