



# 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 application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of double the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant’s evidence that each Landlord was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlords’ address for service was that obtained by way of a land titles search of the rental unit. The Landlords did not attend the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

### Background and Evidence

After viewing the rental unit the Tenant and her roommate paid a security deposit of \$540.00 to the Landlord for a unit advertised for \$1,080.00 per month starting January 1, 2015. The Tenant was told at the time of making the payment that the Tenant would have to make an application and that they would move forward if approved. The Tenant was informed some days later that she was approved and a meeting was arranged for the next day to look at the lease. Upon meeting with the Landlord the Tenant was told that the lease was for only one bedroom in a shared suite. The Tenant and her roommate were taken by surprise with the shared aspect and informed the Landlord that they would not take the tenancy. The Tenant did not sign the tenancy agreement and requested the return of the security deposit. The Landlord refused to return the monies. The Tenant sent her forwarding address to the Landlord on December 20, 2014 at the rental unit address. The Landlord has not returned the security deposit and no claim has been made by the Landlord.

### Analysis

Section 16 of the Act provides that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit. Based on the Tenant's undisputed evidence that a deposit was paid to the Landlord, I find that the Landlord accepted a security deposit for a tenancy to start January 1, 2015 and that the tenancy was ended by the Tenant before the occupancy was to take effect.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the undisputed evidence that the Tenant provided its forwarding address to the Landlord and considering that the Landlord did not make an application to claim against the security deposit and did not return the security deposit, I find that the Landlord must now repay the Tenant double the security deposit plus zero interest of **\$1,080.00**. As the Tenant's application has been successful I find that the Tenant is entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$1,130.00**.

### Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$1,130.00**. If necessary, 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: September 21, 2015

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Residential Tenancy Branch

