



# 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 for a monetary order for the return of the security deposit and for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

This matter was originally heard on April 16, 2015. The landlord did not attend that hearing. The hearing was adjourned to give the tenant the opportunity to serve the landlord and provide proof of service.

The reconvened hearing took place on June 16, 2015 and the landlord did not attend. The tenant provided proof of service of the hearing package to the landlord and was granted a monetary order for the return of double the security deposit plus the filing fee with a deduction for the amount already returned to the tenant.

The landlord applied for a review of this decision and the reviewing Arbitrator found that the landlord had not been properly served. The tenant had testified that he had served the landlord on June 11, 2014 when he had actually served the landlord on June 11, 2015. Since the hearing was on June 16, 2015 and the tracking information indicated that the landlord had not received the package, the reviewing Arbitrator granted the landlord a review hearing. The original decision and order dated June 17, 2015 were suspended. The review hearing was scheduled for this date – September 11, 2015.

### **Issues to be Decided**

Did the tenant provide the landlord with his forwarding address in writing? Did the landlord apply to retain the security deposit or return the security deposit in a timely manner? Is the tenant entitled to the return of the security deposit? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on or about July 2014 and ended on August 31, 2014. The monthly rent was \$2,200.00. During the tenancy, on July 26, 2014, the tenant paid a security deposit of \$1,100.00.

The tenant stated that upon moving out, he did not provide his forwarding address in writing to the landlord. He informed the landlord of his email address and requested that his deposit be returned by email transfer. The tenant agreed that he had received \$586.40 by email transfer.

The landlord stated that she did not return the full deposit because the tenant had not cleaned the rug, had left behind some of his unwanted possessions, had left the unit in an unclean condition and had caused damage to the paint on the porch railing.

Attempts at mediating the matter were unsuccessful. During the hearing, the tenant requested for the return of double the security deposit.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, I find that the tenant failed to provide the landlord with his forwarding address in writing and is therefore not entitled to the return of double the security deposit. Since the tenant had not provided the landlord with a forwarding address, the landlord had no way of making application for damages against it. Therefore I find that the tenant is not entitled to the return of double the security deposit.

However, I find that the landlord now has the tenant's forwarding address and must within 15 days of this date, return the balance of the security deposit or make application to keep all or a portion of the deposit.

The tenant has not proven his case and therefore is not entitled to the recovery of the filing fee.

In regards to the landlord's claim relating to loss that she may have suffered, I am not able to either hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application. That being said, I must point out that the landlord is at liberty to make a separate application for dispute resolution and to submit her evidence.

**Conclusion**

The tenant's application is dismissed. The landlord must return the balance of the security deposit or make application to retain all or a portion of it, within 15 days of this date.

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 11, 2015

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Residential Tenancy Branch

