



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

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

The tenant, a tenant advocate, and the son/agent of the landlord (the "agent") attended the hearing. The parties gave affirmed testimony, were provided the opportunity to present their relevant evidence orally and in documentary form prior to the hearing, and make submissions to me.

### Preliminary and Procedural Matter

At the outset of the hearing the parties agreed by consent that the tenant's application would be amended to include the "Estate of" before the name of the landlord as the landlord passed away in 2014. In addition, the name of the agent of the landlord, G.A., was added as a respondent by consent of the parties. Both of these amendments were made in accordance with section 64(3) of the *Act*.

### Issue to be Decided

- Is the tenant entitled to the return of double his security deposit under the *Act*?

### Background and Evidence

The parties agreed that the tenancy began on April 22, 2015 and ended on June 30, 2015 when the tenant vacated the rental unit. The tenant paid a security deposit of \$250.00 at the start of the tenancy which the landlord continues to hold.

During the hearing, the tenant was unable to provide the date that he provided his written forwarding to the landlord. The landlord testified that he has never received the tenant's written forwarding address from the tenant.

### Analysis

Based on the testimony and documentary evidence before me, and on the balance of probabilities, I find the following.

Section 38 of the *Act* applies and states:

#### **Return of security deposit and pet damage deposit**

**38 (1) 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.**

[my emphasis added]

Based on the above, I find that the tenant's application for the return of double his security deposit is premature. The tenant was unable to provide the date in which he provided his written forwarding address to the landlord. As a result, I find that the tenant has not complied with section 38 of the *Act*.

**I ORDER** the tenant to mail his written forwarding address to the landlord by registered mail. The landlord must comply with section 38 once the tenant has provided his written forwarding address by registered mail.

If the tenant does not receive his security deposit from the landlord in accordance with section 38 of the *Act*, or the landlord does not file a claim to keep the tenant's security deposit as long as the landlord has not extinguished his right to claim against the security deposit, the tenant is at liberty to reapply for double his security deposit 15 days after the deemed service date; which is five days after the registered mail has been mailed.

### Conclusion

The tenant's application is premature. The tenant has been ordered to mail his written forwarding address to the landlord by registered mail and is at liberty to reapply for double his security deposit should the landlord fail to comply with section 38 of the *Act* as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: January 15, 2016

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Residential Tenancy Branch

