



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Main Street Equity  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNSD, MNDC, OLC, FF

### Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested a monetary Order for return of double the security and pet deposits, an order the landlord comply with the Act, compensation for damage or loss under the Act and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. The hearing process was explained and the parties were given the opportunity to ask questions about the process. I have considered all of the evidence and testimony provided.

The parties confirmed receipt of the others' evidence.

### Preliminary Matters

The tenant has claimed only return of double the deposits.

### Issue(s) to be Decided

Is the tenant entitled to return of double the security and pet deposits paid?

### Background and Evidence

The parties agreed that the tenancy commenced in August 2013. A move-in condition inspection report was completed.

The tenancy ended effective July 30, 2015. A move-out inspection was completed on the last day of the tenancy. The tenant provided her forwarding address in writing on July 30, 2015.

On August 4, 2015 the landlords' head office issued a cheque in the sum of \$650.00; representing the \$450.00 security deposit and the \$200.00 pet deposit that had been paid.

There was no dispute that the landlord transposed the street address numbers of the tenants' address and that due to this clerical error the cheque was not received by the tenant. In the third week of August 2015 the tenant called the landlord to report she had not received the deposit. The landlord checked with their head office and discovered that the numbers of the address had been transposed.

The original cheque was cancelled and on August 25, 2015 a new cheque was issued. The tenant received that cheque on August 28, 2015.

The landlord provided copies of both cheques issued to the tenant.

The tenant does not believe that the landlord purposefully made the address error, but has claimed double the deposits as they were not returned within 15 days of July 30, 2016.

### Analysis

Section 38(1) of the Act provides:

#### ***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.*

If the landlord does not comply with section 38(1) of the Act the landlord must pay the tenant double the amount of the deposits, in accordance with section 38(6) of the Act.

I find that the landlord received the tenants' written forwarding address on July 30, 2015. This was not in dispute.

There was no dispute that the deposits were returned to the tenant when the cheque was issued on August 5, 2015.

The basis of the tenants' claim for double the deposits is that an error was made when the deposits were mailed, resulting in a delay beyond fifteen days.

I find that the landlord complied with section 38(6) of the Act and did repay the deposits within 15 days of the end of the tenancy and the date the written forwarding address was given. The repayment is proven by the cheque that was issued by the landlord on August 5, 2015 and placed in the mail. The tenant has confirmed that no mal-intent occurred; that the August 5, 2015 cheque did not arrive due to an inadvertent transposing of the address.

Section 62(3) of the Act provides:

*(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies*

Therefore, pursuant to section 62(3) of the Act, I find that the landlord has complied with section 38(1) of the Act, by repaying the deposit within the required time limit. The fact that the cheque was not delivered as the result of an unintentional error does not negate the fact that repayment had been issued and mailed.

Therefore, I find that the claim for double the deposits is dismissed.

### Conclusion

The claim is dismissed.

This decision is final and binding 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: April 12, 2016

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Residential Tenancy Branch