



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, 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 return of double the security deposit - Section 38;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to return of the security deposit?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on February 1, 2012 and ended on September 1, 2015. At the outset of the tenancy the Landlord collected \$550.00 as a security deposit. While the Parties mutually inspected the unit at move-in no condition inspection report was completed with a copy to the Tenant. The Parties mutually conducted a move-out inspection on September 1, 2015. The Tenant provided its forwarding address on September 1, 2015.

On September 25, 2015 the Landlord returned \$425.00 of the security deposit to the Tenant and retained \$125.00 for damage to the carpets.

### Analysis

Section 23 of the Act requires that at the start of a tenancy, a landlord and tenant must together inspect the condition of the rental unit and the Landlord must complete a condition inspection report in accordance with the regulations. Section 24(2) of the Act provides that where a landlord does not complete and give the tenant a copy of a condition inspection report, the right to claim against that deposit for damage to the residential property is extinguished. As the Landlord did not complete the condition report at move-in I find that the Landlord's right to claim against the security deposit was extinguished at move out and the Landlord was required to return the full amount of the security deposit to the Tenant.

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. As the Landlord could not make an application to claim against the security deposit for damages to the unit due to the Landlord's right being extinguished and as the Landlord did not return the full security deposit to the Tenant within 15 days of the end of the tenancy, I find that the Landlord must now pay the Tenant double the security deposit plus zero interest in the amount of **\$1,100.00**. As the Tenant's application has been successful the Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of \$1,150.00. Deducting the **\$425.00** already received by the Tenant leaves **\$725.00** owed by the Landlord to the Tenant.

Conclusion

I grant the Tenant an Order under Section 67 of the Act for **\$725.00**. 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: April 19, 2016

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Residential Tenancy Branch