



# 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 the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on September 27, 2015 in accordance with Section 89.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

### Background and Evidence

The tenant submitted the tenancy began in January 2013 for a monthly rent of \$1,400.00 due on the 1<sup>st</sup> of each month with a security deposit of \$700.00 and a pet damage deposit of \$700.00 paid.

The tenant submitted that the tenancy ended on August 31, 2015 after the landlord had entered into an agreement to sell the residential property to a new owner. The tenant testified the new owner took possession of the residential property on September 1, 2015.

The tenant submitted that she and the landlord completed the move out condition inspection on August 31, 2015 and the landlord returned the pet damage deposit to her on that same date.

The tenant testified the landlord identified that there were some burns in the flooring and that she would agree to have the landlord withhold some funds for some repairs. The landlord stated he would discuss with the new owners of the property. The tenant stated the landlord later told her he would not return any portion of the security deposit because the new owner's wanted a new floor.

The tenant testified that she provided the landlord with her forwarding address in writing on September 3, 2015 by leaving it with him personally.

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit less any amount agreed upon in writing or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

I accept, from the tenant's undisputed testimony that the landlord returned the pet damage deposit on the last day of the tenancy.

Based on the undisputed testimony from the tenant I find the tenancy ended on August 31, 2015 and that the tenant provided the landlord with her forwarding address in writing on September 3, 2015. As such, I find the landlord had until September 18, 2015 to either file an Application for Dispute Resolution claiming against the deposit or to return the deposit in full (as there is no evidence before me that the tenant agreed in writing to any deductions).

Based on the above, I find the landlord has failed to comply with the requirements outlined in Section 38(1) and as such the tenant is entitled to double the amount of her security deposit, pursuant to Section 38(6).

### Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,450.00** comprised of \$1,400.00 double security deposit owed and the \$50.00 fee paid by the tenant for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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 04, 2016

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Residential Tenancy Branch