



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

The tenant applies for return of a security deposit.

At hearing the landlord wished to advance a claim for the cost of cleaning the rental unit after the tenant left. As well, the tenant indicated that the landlord still held some of her belongings.

The parties were informed that to pursue claims not raised by an application for dispute resolution it is necessary for each to apply, specifying his or her claim in an application, so as to afford the other the opportunity to respond.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Has the landlord any right to retain any of the tenant's security deposit money?

### Background and Evidence

The facts relating to this claim are not in dispute.

The rental unit is a two bedroom apartment in a 54 unit apartment building. The tenancy started in March 2009. The most recent monthly rent was \$870.00. The tenant paid a \$425.00 security deposit.

The tenant gave notice to end her tenancy January 31, 2016. She paid the January rent.

She vacated the premises on or about January 24, returning the key that day and provided a forwarding address in writing.

The landlord did not schedule a move out inspection with the tenant. It is his habit to conduct one when the key is returned. He was not able to do so in this case.

The landlord returned to the tenant the amount of \$162.97 on January 30. He unilaterally retained the remainder of \$262.03 for cleaning costs. He did not have the tenant's written authority to retain any amount from the deposit.

### Analysis

Section 38 of the *Residential Tenancy Act* (the "RTA") provides that once a tenancy has ended and once the tenant has provided a forwarding address in writing, a landlord must either repay the remaining deposit money or make an application to keep all or a portion of it *within 15 days*.

If a landlord fails to do so, he can still apply for compensation from the tenant but must account to her for double the deposit money.

In this case, the landlord has not complied with s. 38 and the tenant is entitled to recover double the deposit money remaining at the end of the tenancy.

The tenant has not applied for a doubling of the deposit. Residential Tenancy Policy Guideline 17 "Security Deposit and Set off [*sic*]" provides that an arbitrator is to award the doubling penalty even when not claimed, unless the tenant specifically waives it. At the hearing the tenant declined to waive the doubling penalty.

The amount of the deposit owing at the end of the tenancy on January 31, 2016 was \$262.03.

The tenant will have a monetary award and monetary order against the landlord for double that amount: \$524.06.

Conclusion

The tenant's application is allowed.

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: June 28, 2016

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Residential Tenancy Branch