



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order to recover double the security and cable and phone deposits and to recover the filing fee from the landlord for the cost of this application.

The tenant and the landlord attended the conference call hearing. The parties gave sworn testimony. The parties provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of the tenant's evidence. The tenant testified that she did not receive evidence from the landlord. The landlord provided evidence that this was served upon the tenant by registered mail. The landlord's evidence is therefore considered to be served five days after it was sent pursuant to s. 90(a) of the *Residential Tenancy Act* (Act). I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order to recover the security and other deposits?

### Background and Evidence

The parties agreed that this tenancy started on May 15, 2013 for month to month tenancy. The tenancy ended on October 15, 2015. Rent for this unit was \$650.00 per month due on the first day of each month in advance. The tenant paid a security deposit of \$325.00 and a deposit of \$100.00 for cable and phone services.

The tenant testified that the landlord failed to return the security and other deposits within 15 days of receiving the tenant's forwarding address in writing. The tenant testified that the forwarding address was provided to the landlord by registered mail on October 22, 2015; however this was uncollected by the landlord and returned to the tenant. The tenant then served the landlord in person with her forwarding address in writing on October 28, 2015. The tenant testified that the landlord was not given written permission to keep all or part of the security or other deposits.

The tenant testified that the landlord failed to complete a move in and a move out condition inspection report at the start and end of the tenancy. Therefore, there is no record of the condition of the unit at the start of the tenancy.

The landlord agreed that they did receive the tenant's forwarding address in writing on October 28, 2015. The landlord agreed the tenants has not provided written permission for the landlord to keep all or part of the security or other deposits and testified that they retained the deposits for loss of rent and damage to the unit.

### Analysis

Section 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy or from the date that the landlord receives the tenant's forwarding address in writing to either return the deposits to the tenant or to make a claim against them by applying for Dispute Resolution. If the landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of

the deposits then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the deposits to the tenant.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenant's forwarding address in writing on October 28, 2015. As a result, the landlord had until November 12, 2015 to return all of the tenant's deposits or file a claim to keep them. As the landlord failed to do so, the tenant has established a claim to have the deposits doubled to an amount of **\$850.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the deposits for the term of the tenancy.

The tenant is also entitled to recover the **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$900.00**. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court 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: July 26, 2016

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Residential Tenancy Branch