



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sutton Max Realty & Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD

### Introduction

This is an application brought by the tenant requesting that a monetary order be issued against the respondent.

The applicant testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on February 17, 2016; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All parties were affirmed.

### Issue(s) to be Decided

The issue is whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

### Background and Evidence

The applicant testified that this tenancy began on August 1, 2015 and that a security deposit of \$540.00 and a pet deposit of \$300.00 were both paid on August 1, 2015.

The applicant further testified that the tenancy ended on January 29, 2016 and, on that date, he personally gave the landlord's a forwarding address in writing on the moveout inspection report.

The applicant further testified that, although he has not given the landlord any permission to keep any of the security deposit, the landlord only returned \$161.92 of the deposit.

The applicant is therefore requesting a monetary order for the return of double his security deposit and pet deposit, less the amount that was already returned.

### Analysis

The applicant has provided evidence, in the form of a security deposit statement from the landlords, which shows that he paid a security deposit of \$540.00 on August 1, 2015, and a pet deposit of \$300.00 on August 1, 2015.

That security deposit statement also shows that the landlord only returned \$161.92 of the tenant security/pet deposits and there is no evidence to show that the landlord had permission from the tenant to keep any of the deposit or that the landlord ever applied for dispute resolution for an order to keep the deposit.

Section 38 of the Residential Tenancy Act states that, if the landlord does not either return the security deposit, get the tenants written permission to keep all or part of the security deposit, or apply for dispute resolution within 15 days after the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant double the amount of security deposit.

The landlord has not returned the tenants full security deposit or applied for dispute resolution to keep any or all of tenant's security deposit and the time limit in which to apply is now long past.

This tenancy ended on January 29, 2016 and the landlord had a forwarding address in writing by January 29, 2016, and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore, even though the tenant had not applied for double the security deposit, I am required to order that the landlord must pay double the amount of the security deposit and pet deposit to the tenant unless the tenant specifically waives his right to an order for double the deposits and in this case the tenant has not waived that right.

In this case the tenant paid a combined security/pet deposit of \$840.00 and therefore the landlord must pay \$1680.00 minus the \$161.92 already returned, for a difference of \$1518.08.

Conclusion

Pursuant to sections 38 and 67 of the Residential Tenancy Act I have issued a monetary order for the respondents to pay \$1518.08 to the applicant.

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: September 07, 2016

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Residential Tenancy Branch