



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Point Grey Manor Apartments  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, 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 only by the tenant.

### Issue(s) to be Decided

Whether the tenant is entitled to a monetary order for all or part 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 *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenant testified the landlord was served with the notice of this hearing on June 13, 2016 by registered mail and relied upon a copy of a Canada post confirmation as documentation of this service. Based on the above, I find that the landlord has been served with the notice of hearing documents pursuant to the *Residential Tenancy Act (Act)*.

The tenant testified the tenancy began on July 1, 2015 as a twelve-month fixed term tenancy with a monthly rent of \$ 1,530.00 due on the 1<sup>st</sup> of each month and that a security deposit of \$ 700.00 was paid on July 1, 2015.

The tenant provided a copy of an email sent to the landlord dated January 20, 2016 providing the landlord with the tenant's forwarding address and read into evidence a reply by email from the landlord dated January 21, 2016.

The tenant testified that he did not receive any portion of his security deposit returned from the landlord and did not consent to the landlord retaining any portion of it either. The tenant requested a monetary order equivalent to double his security deposit.

### Analysis

Section 38(4) states that the landlord may retain an amount from a security deposit or a pet damage deposit if at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant. As I have no evidence before me that the landlord had any written agreement from the tenant at the end of the tenancy regarding the retention, I find the landlord had no authority to retain any amount from the security deposit.

Section 38(1) of the *Act* stipulates that the landlord must, within 15 days of the end of the tenancy or receipt of the tenant's forwarding address, return the security deposit to the tenant or file an Application for Dispute Resolution to claim against the security deposit for any damage or loss the landlord may have incurred.

I accept the tenancy ended on or before February 15, 2016 and that the tenant provided his address in writing to the landlord on January 20, 2016. To be compliant with Section 38(1) the landlord would have to return the security deposit to the tenant, or file his own application no later than February 5, 2016.

I find that as the landlord failed to comply with section 38 (1) therefore I award the tenant double the amount of the security deposit held 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 **\$ 1,500.00** comprised of double the security deposit; and the \$ 100.00 fee paid by the tenant for this application. This order and decision 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: December 19, 2016

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Residential Tenancy Branch