



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MNSD

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for the return of double the security deposit pursuant to section 38 and 67 of the Act.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via regular post mail. The landlord confirmed receipt of the tenant's package as claimed. The landlord stated that no documentary evidence was submitted by him. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served and are deemed sufficiently served as per section 90 of the Act.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for return of double the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Although neither party submitted a copy of the signed tenancy agreement both parties agreed that this tenancy began on March 1, 2015 on a month-to-month basis as per a signed tenancy agreement. The monthly rent was \$850.00 payable on the 1<sup>st</sup> day of each month and a security deposit of \$425.00 was paid on March 1, 2015.

Both parties agreed that the tenancy ended at the end of February 2016 and that the tenant had provided her forwarding address in writing for the return of the security deposit on March 23, 2016 in a letter.

Both parties agreed that the landlord withheld \$340.00 of the security deposit and that the landlord returned \$85.00 to the tenant.

The tenant claims that the landlord withheld the \$340.00 without her permission and seeks a monetary order for return of double the security deposit. The landlord confirmed that he withheld the \$340.00 without permission of the tenant and that he has not filed an application for dispute for return of the security deposit.

### Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing.

In this case, it is clear based upon the undisputed affirmed evidence of both parties that the landlord failed to return \$340.00 of the original \$425.00 security deposit. Both parties confirmed that the landlord received the tenant's forwarding address in writing on March 23, 2016 in a letter. The landlord also confirmed that he has not filed an application for dispute to retain the security deposit. As such, I find that the tenant has established a claim for return of \$340.00 of the original deposit currently withheld by the landlord.

Pursuant to section 38 (6) of the Act If the landlord has not returned the security deposit or file an application for dispute, the landlord is required to pay a monetary award equivalent to the value of the security deposit. As such, I find that the landlord having failed to comply with the Act is liable for an amount of \$425.00.

The tenant has established a total monetary claim of \$765.00.

### Conclusion

The tenant is granted a monetary order for \$765.00.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and 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 01, 2016

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Residential Tenancy Branch