



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNSD, FF*

### **Introduction**

This hearing dealt with an application by the tenant for a monetary order for the return of the security deposit. At the start of the hearing the tenant requested for the recovery of the filing fee as well.

Service of the hearing document, by the tenant to the landlord, was done in accordance with section 88 of the *Residential Tenancy Act*, sent via registered mail on July 28, 2016. The tenant provided a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be Decided**

Is the tenant entitled to the return of the security deposit and the filing fee?

### **Background and Evidence**

The tenancy began on August 01, 2015 for a fixed term of two years. On June 08, 2016 the tenant provided notice to end the tenancy for financial reasons. The monthly rent was \$1,800.00. Prior to moving in, the tenant paid a security deposit of \$900.00.

The tenant testified that he paid rent for the entire month of July 2016 and moved out on July 04, 2016. A new tenant moved in that same day. The tenant testified that the new tenant paid an increased rent of \$2,250.

The tenant stated that he provided the landlord with a forwarding address on June 30, 2016. The landlord retained \$575.00 from the security deposit without the tenant's permission and returned \$325.00 to the tenant. The landlord informed the tenant that he had retained \$525.00 because the tenant had ended the tenancy prior to the end date of the fixed term. On July 21, 2016, the tenant made this application.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

Based on the sworn testimony of the tenant and in the absence of any contradictory evidence, I find that the landlord failed to repay the full security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The landlord held a security deposit of \$900.00 and is obligated under section 38 to return double this amount (\$1,800.00) plus interest on the base deposit (\$0.00). Since the tenant has proven his claim, he is also entitled to the recovery of the filing fee (\$100.00). The tenant has established a total claim of \$1,900.00 and has already received \$325.00,

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for the balance of \$1,575.00. This order may be filed in the Small Claims Court and enforced as an order of that Court

### **Conclusion**

I grant the tenant a monetary order for **\$1,575.00**.

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: January 25, 2017

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Residential Tenancy Branch