



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNSD FF

### **Introduction**

Only the tenant attended the hearing and gave sworn testimony. The tenant provided evidence that she had served the landlord with the Application for Dispute Resolution by registered mail and with her forwarding address in writing. The registered mail was returned unclaimed but the tenant said this was the house in which she had lived with the landlord so the address was correct. I find the documents were served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order to return double the security deposit pursuant to Section 38; and
- b) To recover the filing fee for this application.

### **Issue(s) to be Decided:**

Has the tenant proved on the balance of probabilities that she is entitled to the return of double the security deposit according to section 38 of the Act?

### **Background and Evidence**

Only the tenant attended the hearing and was given opportunity to be heard, to present evidence and make submissions. The tenant said she had paid a security deposit of \$1800 in December 2016 and agreed to rent a room for \$1800 a month. She said she occupied one room and the owner occupied the master bedroom. She shared the kitchen facilities with the owner. The tenant's deposit has never been returned and he gave no permission to retain any of it.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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### **Analysis:**

Section 38 of the Act provides for the return of a tenant's security deposit. However, I find section 4 of the Act states that "This Act does not apply to 4(c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation". The evidence of the tenant is that she shares kitchen facilities with the owner. Therefore I find I have no jurisdiction in this matter.

**Conclusion:**

I dismiss the application of the tenant without recovery of the filing fee as I find I have no jurisdiction in this matter.

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: March 23, 2017

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Residential Tenancy Branch