



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

MNSD MNDC

### Introduction

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

- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

### Issues

Is the tenant entitled to a return of all or a portion of the security deposit, including double the amount?

### Background and Evidence

The tenancy began in June 2014 and ended on April 30, 2016. The tenant paid a security deposit of \$575.00 and a pet deposit of \$500.00 at the start of the tenancy.

A forwarding address was provided by the tenant as per the move-out condition inspection report completed on April 29, 2016. The tenant's security deposit and pet deposit was returned in full on December 14, 2016.

The tenant is claiming double the security deposit arguing that the landlord failed to return the security deposit within 15 days of the date the landlord received the tenants forwarding address in writing.

The landlord submits that the security deposit was returned to the forwarding address provided by the tenant within 15 days but the cheque was not cashed. The landlord only became aware of the issue after the tenant filed an application for dispute resolution and the deposit was returned soon after.

The tenant denies receiving any cheque within 15 days and testified that he contacted the landlord on numerous occasions and was never advised that any cheque had been mailed out.

### Analysis

Section 38 of the Act provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. A landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit, pet deposit, or both, as applicable.

I find the tenant did provide a forwarding address in writing to the landlord on April 29, 2016. The landlord failed to provide sufficient evidence in support of its argument that a cheque was mailed out to the address provided within 15 days of the end of the tenancy. The landlord did provide any supporting documents in proof of this alleged payment. I find the tenant's security deposit was not refunded within 15 days of the end of the tenancy as required by section 38 of the Act and the doubling provisions of section 38 therefore apply.

I allow the tenants claim for return of the security deposit and award an amount of \$1075.00, which is double the original security deposit of \$1075.00 less the \$1075.00 returned to the tenant.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$1075.00. Should the landlord fail to comply with this Order, this 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: April 04, 2017

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Residential Tenancy Branch