



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, OLC, FF

### Introduction

The tenant applies to recover a \$550.00 security deposit.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Is the tenant entitled to return of her deposit money?

### Background and Evidence

The facts are not in dispute. The rental unit is a two bedroom basement suite. There is a written tenancy agreement though neither party submitted a copy of it. The tenancy started in August 2014. The tenant paid a \$550.00 security deposit.

The tenant moved out at the end of December 2015 after giving the landlord two weeks' notice. The landlord received the tenant's forwarding address in writing in mid January 2016. He does not have the tenant's written authorization to keep any portion of the deposit money nor has he applied for a monetary award against which to offset the deposit money.

### Analysis

Section 38 of the *Residential Tenancy Act* (the "Act") provides that once a tenancy has ended and once the tenant has provided a forwarding address in writing, the landlord has a fifteen day window in which to either repay the deposit or to make an application

to keep all or a portion of it. If the landlord fails to do either of those things within that period he must account to his tenant for double the deposit.

A breach of s.38 does not prohibit a landlord from later making an application but only penalizes him for not doing so within the fifteen day period.

Since the landlord presently has no lawful ground for holding the deposit the tenant is entitled to its return.

Since the landlord has breached s.38, the tenant is entitled to the benefit of the doubling penalty.

The tenant has not claimed or refused the doubling in her application. Residential Tenancy Policy Guideline 17, "Security Deposit and Set off [*sic*]" states that an arbitrator is to award the doubling unless the tenant specifically declines it. The question was put to the tenant at hearing and she wishes to receive the doubling.

### Conclusion

The tenant is entitled to recover her \$550.00 security deposit, doubled to \$1100.00, plus recovery of the \$100.00 filing fee. The tenant will have a monetary order against the landlord in the amount of \$1200.00.

This decision was rendered orally at hearing and 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: June 28, 2017

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Residential Tenancy Branch