



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security and pet deposit - Sections 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to return of a security and pet deposit?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The Tenant states that the tenancy began on August 15, 2011. The Landlord states that he does not know when the tenancy began and that the Landlord purchased the house containing the unit in 2016.

The following facts are not disputed: No move-in inspection was conducted. Rent of \$650.00 was payable on the first day of each month throughout the tenancy. At the outset of the tenancy the Landlord collected \$325.00 as a security deposit. After receiving a notice to end tenancy for landlord’s use, the Tenant moved out of the unit on September 30, 2016. The Parties mutually conducted a move-out walkthrough but no

inspection report was completed with a copy provided to the Tenant. The Landlord has not returned any deposit and has not made an application to claim against the deposit.

The Tenant states that a pet deposit of \$325.00 was also collected by the Landlord at the outset of the tenancy. The Tenant provides a signed copy of the tenancy agreement. The Tenant states that her forwarding address was provided at the move-out inspection done on October 4, 2016. The Tenant claims return of the deposits.

The Landlord states that he did not receive the Tenant's forwarding address until December 13, 2017. The Landlord states that no pet deposit was collected. The Landlord does not believe that the signed tenancy agreement is valid as the Landlord does not know who signed the agreement, the signature appears recent, and the signature is not the same signature as the Landlord has on his purchase and sale agreement. The Landlord did not provide any copy of that agreement. The Landlord states that the Tenant had not provided a copy of this agreement in the first evidence package when several unsigned copies of a tenancy agreement had been provided by the Tenant previously as evidence. The Landlord states that the signed copy was sent to the Landlord by an email attachment that was forwarded by the Tenant immediately after the original hearing on this matter. The Landlord states that he was unable to locate the named landlord on the tenancy agreement through the lawyers who handled the sale of the unit as he was not provided with any information from these lawyers. The Landlord made no other search for the company or named landlord. The Tenant states that the email thread provided as evidence shows the names of the persons who the Tenant was dealing with at the outset of the tenancy and who signed the tenancy agreement on behalf of the named landlord.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section,

the landlord must pay the tenant double the amount of the security deposit. Although the Tenant does not provide any supporting documentation of providing her forwarding address to the Landlord prior to making the application I find the Tenant's evidence to hold a ring of truth and I accept that the Landlord did receive the forwarding address as stated by the Tenant. Even if the Landlord only received the forwarding address in December 2016, no application was made by the Landlord to claim against the security deposit after receipt of the address.

Given the Tenant's evidence with the email thread showing the tenancy agreements I find on a balance of probabilities that the Tenant did pay a pet deposit of \$325.00 in addition to the security deposit. As the Landlord has not returned either of the deposits and has not claimed against the deposits for damages or losses other than damage to the unit, I find that the Landlord must now repay the Tenant double the combined security and pet deposit plus zero interest of **\$1,300.00** ( $\$325.00 + \$325.00 \times 2$ ). As the Tenant's claim has been successful, I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,400.00**.

### Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,400.00**. If necessary, this order may be filed in the Small Claims 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: July 17, 2017

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Residential Tenancy Branch