



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

The tenant applies for return of a \$700.00 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

Does the landlord have a right to retain the deposit money?

### Background and Evidence

The relevant facts are not in dispute. The rental unit is the two bedroom lower portion of a duplex style building or house. The tenancy started in March 2016. The tenant returned keys on February 22, 2017 and the landlord received the tenant's forwarding address in writing on the same day.

The landlord has not either repaid the deposit money to the tenant or made an application to keep any or all of it.

### Analysis

Section 38 is clear in these circumstances: once a tenancy has ended and once a forwarding address in writing has been given a landlord has fifteen days to either repay deposit money or make application to keep all or a portion of it. A landlord who fails to do one or the other must account to his tenant for double the deposit money.

In this case the landlord has failed to comply and must account to the tenant for \$700.00 deposit. The landlord also comes within the doubling penalty provision of s. 38.

The tenant did not claim the doubling penalty in her application. Residential Tenancy Policy Guideline 17, "Security Deposit and Set off [*sic*]" provides that an arbitrator is to award the doubling penalty even when not claimed, unless the tenant specifically declines it at the hearing. The question was put to the tenant and she requested the doubling. The tenant is therefore entitled to an award of \$1400.00.

The tenant is also entitled to recover the \$100.00 filing fee for this application.

The landlord in her testimony listed a number of complaints regarding the state of the premises. She is free to bring her own application for a monetary award within the time limits set by law.

### Conclusion

The tenant's application is allowed. She will have a monetary order against the landlord in the amount of \$1500.00.

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: August 14, 2017

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Residential Tenancy Branch