



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

On April 28, 2017, the Tenant submitted an Application for Dispute Resolution for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The Tenant and the Landlord's agent appeared at the hearing. The hearing process was explained and the parties were asked if they had any questions. The parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Tenant entitled to the return of double the security deposit?
- Is the Tenant entitled to recover the cost of the filing fee?

### Background and Evidence

The parties testified that the tenancy commenced on March 15, 2016, and ended on March 31, 2017. Rent in the amount of \$2,750.00 was due to be paid to the Landlord by the fifteenth day of each month. The Tenant paid the Landlord a security deposit of \$1,500.00.

The Tenant testified that the Landlord did not return the security deposit to him after he moved out of the rental unit and provided his forwarding address.

The Tenant provided a copy of his forwarding address that was provided to the Landlord on April 3, 2017, and April 5, 2017.

The Tenant testified that there was no agreement that the Landlord could retain any amount of the security deposit.

The Landlord testified that he did not return the security deposit to the Tenant because he believes that the Tenant owes him compensation for ending the tenancy incorrectly.

The Landlord testified that he did not apply to keep the deposit or return it to the Tenant within 15 days after receiving the Tenant's forwarding address.

### Analysis

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

Section 38 (1) of the Act states 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 any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off states:

*If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.*

I find that the Tenant provided his forwarding address to the Landlord on April 3, 2017. There is no evidence before me that the Landlord applied for dispute resolution within 15 days of receiving the Tenant's forwarding address. I find that there was no agreement from the Tenant that the Landlord could retain the security deposit.

I find that the Landlord breached section 38 of the Act. Pursuant to section 38(6) of the Act, the Landlord must pay the Tenant double the amount of the security deposit.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I order the Landlord to pay the Tenant the amount of \$3,100.00. I grant the Tenant a monetary order in the amount of \$3,100.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlord failed to return the security deposit to the Tenant in accordance with the legislation.

The Tenant is granted double the amount of the security deposit. I grant the Tenant a monetary order in the amount of \$3,100.00.

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: September 25, 2017

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Residential Tenancy Branch