



# 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 \$650.00 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 recover the deposit money? Is she entitled to the doubling penalty imposed by s. 38 of the *Residential Tenancy Act* (the “Act”)?

### Background and Evidence

The rental unit is the three bedroom upper portion of a house. The tenancy started in March 2016 at a monthly rent of \$1800.00. There is a tenancy agreement showing the applicant and two others as the tenants. The tenants paid a \$650.00 security deposit at the start of the tenancy.

The tenancy ended July 1, 2017. It is agreed the tenant provided the landlord with her forwarding address in writing on July 10, 2017.

Shortly after, the landlord attempted to return \$450.00 of the deposit, purporting to retain \$200.00 because of floor damage not noted during a walk through at the end of the tenancy. He did not have the tenant’s written authorization to retain any portion of the deposit money. The tenant declined the \$450.00 and brought this application.

The landlord has not yet brought his own application seeking damages for the floor damage.

### Analysis

The return of deposit money is dealt with in s. 38 of the *Act*. In the absence of a tenant's written authorization to retain deposit money, once a tenancy has ended and once a landlord has received a tenant's forwarding address in writing he has a fifteen day period to either repay the deposit or to make an application to keep all or a portion of the deposit. If a landlord fails to do either of those two things he faces the penalty of a doubling of the deposit money.

The facts of this dispute show that the landlord has breached s. 38.

The tenant has not requested or declined a doubling of the deposit money in her application, however, Residential Tenancy Policy Guideline 17, "Security Deposit and Set off [*sic*]" directs an arbitrator to award the doubling even when not requested in a tenant's application, unless specifically declined in the application or at hearing. The question was put to the tenant during this hearing and she requested the doubling.

### Conclusion

The tenant is entitled to recover the \$650.00 security deposit, doubled to \$1300.00, plus recovery of the \$100.00 filing fee for this application.

The tenant will have a monetary order against the landlord in the amount of \$1400.00.

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: October 26, 2017

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Residential Tenancy Branch