



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

MNSD, MNDC, FF

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Neither party submitted any documentation for this hearing.

### Issue to be Decided

Is the tenant entitled to a monetary award equivalent to double the value of his security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*?  
Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background, Evidence

The tenants' testimony is as follows. The tenancy began on November 15, 2014 and ended on June 14, 2017. The tenants were obligated to pay \$800.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$400.00 security deposit. The tenants testified that they gave the landlord their forwarding address when they moved out. The tenant is seeking the return of double his deposits. The tenant is also seeking the recovery of the \$100.00 filing fee.

The landlord gave the following testimony. The landlord testified that the tenants have not provided their forwarding address until she was served with notice of this hearing. The landlord testified that she is more than willing to return the deposit but was concerned about doing prior to the hearing based on the negative relationship between the parties. The landlord testified that she'll gladly return the security deposit and filing fee cost but is opposed to the doubling since the tenants did not provide their address.

### Analysis

The tenant said he is applying for the return of double the security deposit as the landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

When I asked the tenants when they provided their forwarding address in writing to the landlord they were unable to remember what day and how it was served. The tenants did not provide a copy of the alleged letter that they had referred to. Based on the inconsistent and somewhat contradictory testimony of the tenants, they have not provided sufficient evidence to show that they gave the landlord their forwarding address in writing as required and noted above. In the result, the doubling provision was not "triggered" because the tenants did not provide proof that they gave the landlord their forwarding address.

The tenants are entitled to the return of the original deposit of \$400.00 as well as the recovery of the \$100.00 filing fee.

### Conclusion

The tenant has established a claim for \$500.00. I grant the tenant an order under section 67 for the balance due of \$500.00. 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: January 29, 2018

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Residential Tenancy Branch