



# 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 double the security deposit - Section 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 the return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed facts: The tenancy of a basement suite started on February 16, 2017 and ended on August 15, 2017. Rent of \$1,000.00 was payable on the 15<sup>th</sup> day of each month. At the outset of the tenancy the Landlord collected \$500.00 as a security deposit. No move-in inspection was offered by the Landlord or mutually conducted by the Parties. The Tenant provided its forwarding address to the Landlord on August 15, 2017. The Tenant did not provide any written authorization to the Landlord for the retention of any part of the security deposit. The Landlord did not return the security deposit and did not make any claim against the security deposit.

The Tenant claims return of double the security deposit. The Landlord states that the Tenant left damages to the unit.

### Analysis

Section 23 of the Act requires that at the start of a tenancy, the landlord must offer at least two opportunities to conduct an inspection of the unit, the landlord and tenant must together inspect the condition of the rental unit, and the landlord must complete a condition inspection report in accordance with the regulations. Section 24(2) of the Act provides that where, inter alia, a landlord has not made any offers for the inspection the right to claim against that deposit for damage to the residential property is extinguished. Based on the agreed facts that no inspection was offered and conducted at move-in I find that the Landlord's right to claim against the security deposit for damage to the unit was extinguished at move-in.

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. As the Landlord's right to claim against the security deposit for damages to the unit was extinguished at move-in and as the Landlord did not make any other claim against the Tenant, I find that the Landlord was required to return the security deposit in full after receiving the forwarding address. As this did not occur I find that the Landlord must now pay the Tenant double the security deposit plus zero interest of **\$1,000.00**. If the Tenant caused damage to the unit the Landlord remains at liberty to make an application for dispute resolution to claim costs incurred. As the Tenant has been successful I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,100.00**.

Conclusion

I grant the Tenant an Order under Section 67 of the Act for **\$1,100.00**. 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: March 28, 2018

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Residential Tenancy Branch