



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the Tenant for the return of double the security deposit and to recover the filing fee.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail September 5, 2019. The Tenant continued to say the Landlord did not accept the registered mail package and it was returned to sender. As well the Tenant confirmed the address on the registered mail package was the correct address for the Landlord. Based on the evidence of the Tenant, I find that the Landlord is deemed to have been served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absence.

### Issues(s) to be Decided

1. Is the Tenant entitled to the return of double the security deposit?

### Background and Evidence

This tenancy started on March 1, 2019 as a one year fixed term tenancy. The tenancy ended June 30, 2019. Rent was \$975.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$487.50 on March 1, 2019. No condition inspection reports were completed for this tenancy.

The Tenant said she moved into the rental unit on March 1, 2019 and the tenancy ended on June 30, 2019. The Tenant continued to say she gave her forwarding address to the Landlord by registered mail on July 29, 2019 and the Landlord told the Tenant she would not return the Tenant’s security deposit. The Tenant said she contacted the Residential Tenancy Branch and she was told to make an application for double her security deposit.

It does not appear that the Landlord has made an application to the Residential Tenancy Branch and the Landlord did not attend the hearing on December 16, 2019.

The Tenant said she wants to apply for the return of double the security deposit as the Landlord has not complied with the s. 38 of the *Residential Tenancy Act*.

### Analysis

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,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) **must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

I find from the Tenant's testimony that she gave the Landlord her forwarding address in writing on July 29, 2019. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of 2 X \$487.50 in the amount of \$975.00.

In addition as the Tenant has been successful in this matter I order the Tenant to recover the filing fee of \$100.00 from the Landlord.

I award the Tenant a monetary order for \$1,075.00

Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$1,075.00 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court 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: December 16, 2019

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Residential Tenancy Branch