



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNSD, FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to sections 38 and 72 of the *Residential Tenancy Act*. The tenant applied for a monetary order for the return of the security deposit and for the recovery of the filing fee.

Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves.

As both parties were in attendance, I confirmed service of documents. The landlord denied having received the tenant's evidence and stated that he did not file any of his own. The tenant filed proof of having sent his evidence package by registered mail, on September 03, 2020. I find that the landlord was served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

### **Issue to be Decided**

Did the tenant provide the landlord with his forwarding address in writing? Is the tenant entitled to the return of the security deposit and the filing fee?

### **Background and Evidence**

The background facts are generally undisputed. The tenancy started on November 01, 2018 and ended on July 31, 2020. The monthly rent at the end of the tenancy was \$2,545.00. At the start of the tenancy, the tenant paid a deposit of \$2,545.00.

The landlord stated that he received the tenant's forwarding address by email but could not recall the date he received it. The tenant stated that he sent his forwarding address to the landlord by email on July 30, 2020 and put a copy of the address in the landlord's mailbox. The tenant filed proof of service.

As of August 20, 2020, the tenant had not received the deposit and filed this application.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

In this case, I find that the landlord received the tenant's forwarding address on July 30, 2020 and the tenancy ended on July 31, 2020. I find that the landlord failed to repay the deposit or make an application for dispute resolution within 15 days of the end of tenancy and is therefore liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

Section 17 (3) of the *Residential Tenancy Policy Guideline* also addresses the return of the deposit and states that unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit.

In this case, during the hearing, the tenant specifically waived the doubling of the deposit and confirmed during the hearing that he was seeking the return of the base deposit. Accordingly, the landlord must return \$2,545.00 to the tenant. Since the tenant has proven his case, he is also entitled to the recovery of the filing fee of \$100.00.

Overall, the tenant has established a claim of \$2,645.00. Accordingly, I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the tenant a monetary order in the amount of **\$2,645.00**.

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: December 10, 2020

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Residential Tenancy Branch