



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD FFT

### Introduction

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

- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38, including double the amount;
- authorization to recover the filing fee for this application pursuant to section 72.

While the respondent attended the hearing by way of conference call, the applicant did not, although I waited until 1:43 p.m. in order to enable the applicant to connect with this teleconference hearing scheduled for 1:30 p.m. The applicant should have been aware of the hearing date, time and call in instructions as this dispute was initiated by the applicant and the applicant was required to serve a copy of the notice of hearing on the respondent.

The hearing proceeded in the absence of the tenant.

### Issues

Is the tenant entitled to a return of all or a portion of the security deposit?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

The tenancy began on September 1, 2017 and ended on October 31, 2021. The tenant paid a security deposit of \$875.00 at the start of the tenancy. During the move-out condition inspection the parties agreed that the landlord could retain \$441.00 from the security deposit.

The landlord testified the balance was returned to the tenant by mail but was returned to the landlord due to an incorrect address provided by the tenant. The landlord testified

that a replacement cheque in the amount of \$441.00 was re-issued to the tenant on December 31, 2021 and has been available for pick-up since. The landlord submits the tenant has not come to pick up the cheque.

### Analysis

Section 38 of the Act provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has, at the end of the tenancy, consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. A landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit, pet deposit, or both, as applicable.

I allow the tenant's claim for return of the security deposit and award an amount of \$434.00 as agreed to by the parties at the move-out inspection. As the landlord attempted to return the security deposit in accordance with the Act but could not do so as the tenant provided an incorrect address, I make no award for double the amount or for the filing fee for this application.

### Conclusion

Pursuant to section 67 of the Act, I grant the tenant a Monetary Order in the amount of \$434.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: July 04, 2022

---

Residential Tenancy Branch