



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFT, MNSD, MNDCT

### 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 their security deposit pursuant to section 38;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### 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 a monetary order as compensation?

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

### Background and Evidence

This tenancy began on June 3, 2021 and ended on November 21, 2021. Monthly rent was set at \$600.00. The landlord had collected a security deposit in the amount of \$300.00 at the beginning of the tenancy and has not returned any portion of the deposit to the tenant.

The tenant testified that he did not provide the landlord his forwarding address in writing until he sent the Notice of Hearing and Application for this matter. The landlord confirmed that the only time he received the tenants' forwarding address was when he received notice of this hearing.

### Analysis

Section 38 (1) of the *Act* states that within 15 days of the latter of receiving the tenant's forwarding address in writing, and the date the tenant moves out, the landlord must either return the tenant's security deposit, or make an application for dispute resolution against that deposit.

As the tenant testified and gave evidence that the landlord was not provided with his forwarding address in writing, and as both parties were present in the hearing, the tenant's forwarding address was confirmed during the hearing. I informed the landlord that he had 15 days from the date of the hearing, to either return the security deposit to the tenant in full, obtain written consent to deduct a portion or keep the deposit, or make an application to retain a portion or all of it. For efficiency of hearing time and convenience to the parties, and to avoid claim splitting, the monetary portion of the tenants claim will be heard at the same time as his claim for the deposit.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of this case, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application. The tenant must bear the cost of this filing fee.

### Conclusion

The tenant's application to recover the filing fee is dismissed without leave to reapply. The remaining portion of the tenant's application is dismissed with leave to reapply.

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: August 18, 2022

---

Residential Tenancy Branch