



# 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 for the return of the security deposit and the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord acknowledged receipt of evidence submitted by the tenant. Both parties gave affirmed testimony.

### **Issue to be Decided**

Is the tenant entitled to the return of the security deposit and the recovery of the filing fee?

### **Background and Evidence**

The tenancy began on February 01, 2013 and ended on October 01, 2013. Prior to moving in, the tenant paid a deposit of \$350.00. The tenant filed a copy of the tenancy agreement into evidence.

The landlord stated that the tenant did not provide adequate notice to end the tenancy. The tenant agreed that on September 18, 2013, he informed the landlord, by telephone that he would be moving out on October 01, 2013. A new tenant moved into the rental unit on October 01, 2013. The tenant filed a note from the new tenant confirming that she moved in on October 01, 2013 and that the unit was in good condition when she moved in.

The tenant stated that he contacted the landlord by telephone several times for the return of his deposit and filed a copy of his phone records. The tenant stated that he finally gave the landlord his forwarding address in writing on November 12, 2013. The tenant filed a copy of this letter to the landlord that contained his forwarding address. The landlord stated that he did not receive the letter with the tenant's forwarding address. The tenant stated that he placed the letter on the landlord's doorstep.

The landlord testified that he did not return the deposit because the tenant did not provide proper notice to end the tenancy. I explained to the landlord that he was at liberty to file an application of his own to recover any losses he may have suffered due to the breach of the terms of the tenancy agreement, by the tenant.

The landlord spoke at length about the necessity of every one having to “obey the law” The landlord repeatedly referred to term 14 of the tenancy agreement that addresses the end of tenancy and maintained that he was entitled to keep the deposit because the tenant had ended the tenancy without proper notice to do so.

### **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.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant’s forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

The tenant stated that he gave the landlord his forwarding address in writing, by placing a letter on the landlord’s doorstep. The service of documents, by one party to the other is described in section 88 of the *Residential Tenancy Act*. Several methods of service are appropriate, but placing a document on the doorstep is not one of them.

The landlord denied having received the forwarding address of the tenant Even if I accept that the tenant placed the letter containing his forwarding address on the doorstep of the landlord, I am not satisfied that the landlord received it. . Therefore I find that the tenant has failed to prove that he provided the landlord with his forwarding address in writing

Since the tenant had not provided the landlord with a forwarding address, the landlord had no way of returning the deposit or making application for damages against it. The landlord received the tenant’s forwarding address when he served the landlord with notice of this hearing. Therefore I find that the tenant is not entitled to the return of both double the deposit and the recovery of the filing fee paid to make this application.

However, I find that the landlord now has the tenant’s forwarding address and must within 15 days of receipt of this decision, return the security deposit. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for \$350.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

In this case, I find that the tenant breached term 14 of the tenancy agreement when he ended the tenancy without adequate notice. In regards to the landlord's claim relating to losses that he may have suffered, I am not able to either hear or consider the landlord's claim during these proceedings as this hearing was convened solely to deal with the tenant's application.

However as explained to the landlord during the hearing, he is at liberty to make a separate application for dispute resolution, to recover any losses he may have suffered, from the tenant's non compliance with the *Act* and/or the tenancy agreement.

### **Conclusion**

I grant the tenant a monetary order in the amount of **\$350.00**.

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: April 04, 2014

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Residential Tenancy Branch

