



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, FF

### Introduction

The tenant applies to recover a \$350.00 security deposit, doubled pursuant to the provisions of s. 38 of the *Residential Tenancy Act* (the “Act”).

### Issue(s) to be Decided

Does the relevant evidence presented at hearing show that the tenant is entitled to the deposit or to the doubling of it?

### Background and Evidence

The rental unit is a bedroom and bathroom in a four bedroom home the landlord rents from another. The tenant shares cooking facilities with the landlord and whomever his co-tenants happen to be.

The parties agree the tenancy started in September 2013 and ended in March 2014. The landlord received the tenant’s forwarding address in writing in late July 2014. This application was filed July 25, 2014.

The landlord testified that after receiving the tenant’s application she went to the Residential Tenancy office and gave them information about the state the tenant left the premises in and how she was entitled to keep the deposit. She did not make an application for dispute resolution.

### Analysis

The relevant portions of s. 38 of the *Act* provide:

38 (1) 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.

• \* \* \*

- (6) 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.

It is apparent that the landlord failed to comply with s. 38 by either repaying the deposit or making her own application within the 15 day period after the end of the tenancy and receipt of the tenant's forwarding address in writing. She is therefore not only obliged to return the deposit but to pay the tenant double; the amount of \$700.00.

The landlord is free to make her own application for compensation and can do so up to two years after the end of the tenancy.

### Conclusion

The tenant is entitled to recover the double deposit amount of \$700.00 plus the \$50.00 filing fee for this application. There will be a monetary order against the landlord in the amount of \$750.00.

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: January 22, 2015

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Residential Tenancy Branch

