

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: MNSD, FF

## Introduction

This hearing dealt with an application by the tenants for an order for the return of double their security deposit. Both parties participated in the conference call hearing.

## Issue(s) to be Decided

Are the tenants entitled to an order for the return of double their security deposit?

## Background and Evidence

The parties agreed that the tenancy began on September 1, 2008 at which time a \$450.00 security deposit was paid and ended on May 1, 2009. The parties further agreed that the tenants provided their forwarding address in writing on April 29, 2009. The tenants testified that they did not receive their security deposit from the landlord. The landlords testified that they wrote a cheque for the full amount of the security deposit shortly after conducting the move-out inspection of the unit on May 1 and that they waited until May 11 at which time they sent the cheque by ordinary mail. The landlords provided copies of other cheques which they wrote around the same time and testified that cheque #182, which was not among the cheques photocopied, had not been negotiated.

## Analysis

In this matter the landlord bears the burden of proving that the security deposit was repaid to the tenants within 15 days from the end of the tenancy. Although the landlords provided considerable negative evidence, photocopying cheques in an effort to show that the cheque at issue was not among them, they provided no positive documentary evidence to prove that the cheque was mailed, which could have taken the form of a copy of a cover letter or copy of the cheque. I find that the landlords have not proven on the balance of probabilities that the security deposit was returned to the tenants within

15 days of the end of the tenancy.

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. I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenants' forwarding address and is therefore liable under section 38(6) which provides that the landlords must pay the tenants double the amount of the security deposit.

The landlords currently hold a security deposit of \$450 and are obligated under section 38 to return this amount together with the \$2.25 in interest which has accrued to the date of this judgment. The amount that is doubled is the base amount of the deposit.

### Conclusion

I grant the tenants an order under section 67 for \$952.25, which sum includes the double security deposit, interest and the \$50.00 filing fee paid to bring this application. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated September 08, 2009.

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