



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD

### Introduction

This was an application by the tenants for the return of their security deposit including double the amount of the deposit. The hearing was conducted by conference call. The named tenants attended. The landlords did not attend although served with the application and Notice of Hearing sent by registered mail on May 21, 2010. The documentary evidence submitted by the tenant showed that

### Issues(s) to be Decided

Are the tenants entitled to a monetary order for the return of their security deposit and if in what amount?

### Background and Evidence

The rental unit is the lower portion of a house in Whistler. The rental unit has two bedrooms. The tenancy began December, 2009. Monthly rent was \$3,200.00. The tenancy was for a fixed term ending April 30, 2010. The tenant testified that there is a written tenancy agreement but the landlord did not give the tenants a copy of the agreement. The landlords demanded a security deposit in the amount of \$3,200.00. The tenants paid the landlord \$6,400.00 at the commencement of the tenancy. The landlord told the tenants that the deposit consisted of a \$1,600.00 security deposit, an \$800.00 furniture deposit and an \$800.00 Hydro deposit.

When the tenancy ended the tenants arranged to meet with the landlords to perform a condition inspection of the rental unit on May 1, 2010. The tenants waited for one and a half hours, but the landlords did not attend. The tenants made numerous telephone calls to the landlord, but none were answered.

The tenants gave the landlords a letter setting out their forwarding address. The letter was sent by registered mail on May 6, 2010.

On or about May 8, 2010 the tenants met with the landlord, S. M. The landlord paid the tenants \$1,500.00, in the form of three cheques, each in the amount of \$500.00. the cheques were dated May 14, 2010.

The tenants made application for the return of the security deposit including double the amount of the deposit on May 18, 2010. They served the landlord with the application by registered mail sent on May 21, 2010. As of the date of the hearing the landlords have not returned the remainder of the tenants' security deposit and they have not made application to claim any part of the deposit.

### Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has 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.

I am satisfied that the tenants provided the landlords with their written forwarding address and that they served the landlords with documents notifying the landlord of this

application as required by the legislation. The landlords returned \$1,500.00 of the \$3,200.00 deposit, leaving a balance of \$1,700.00 still held by the landlords. The landlords did not obtain the tenants' consent to retain the balance and they have not made application to claim the deposit that they continue to hold. The security deposit was not refunded within 15 days as required by section 38 and the doubling provision of section 38(6) therefore applies. I grant the tenants' application and award them the sum of \$3,400.00, being double the amount of the remaining deposit held by the landlords. No interest has accrued on the original deposit amount. The tenants did not claim a filing fee with respect to their application and I make no order for payment of the filing fee. I grant the tenants a monetary order in the amount of \$3,400.00. This order may be registered in the Small Claims Court and enforced as an order of that Court.