



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This conference call hearing was convened in response to the tenant's application for the return of the security deposit and to recover the filing fees associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Are the tenants entitled to the return of any of the security deposit?

Are the tenants entitled to recover the filing fee for this application?

### Background and Evidence

The parties did not dispute the following evidence: the rental unit consists of furnished basement suite; pursuant to a written agreement, the month to month tenancy started on August 10<sup>th</sup>, 2010; the rent of \$750.00 was payable on the first of each month; the tenants paid a security deposit of \$375.00; and the tenants gave the landlord a written notice notifying that the tenancy ended on February 26<sup>th</sup>, 2011, and a forwarding address for the return of the security deposit.

The landlord testified that she did not return the security deposit because the tenants' notice was given earlier than one month before the tenancy ended, and because of the condition in which the tenants left the rental unit.

### Analysis

Section 38(1) of the *Residential Tenancy 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 landlord received the tenant's forwarding address in writing.

Section 38(6) of the *Residential Tenancy Act* provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit.

In this matter the landlord received the tenants' forwarding address but the security deposit was not returned and the landlord did not apply for dispute resolution as required by statute. Therefore the tenants are entitled to the return of double the amount of the security deposit.

Section 60(1) of the Act provides also for the landlord to make her own application for dispute resolution over matters related to the tenancy within two years after the tenancy ends. The landlord is entitled to claim monetary compensation against the tenants for the damages she alleges, and to submit her evidence at that time.

### Conclusion

The tenants established a claim of \$750.00. Since they were successful, they are entitled to recover the filing fee and pursuant to Section 67 of the Act, I grant the tenants a monetary order for the sum \$800.00

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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: July 12, 2011.

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Residential Tenancy Branch