



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of the security deposit.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were sent to the landlord by registered mail on July 11, 2011. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the submissions were made by the tenant. On the basis of the evidence presented at the hearing, a decision has been reached.

### Issue(s) to be Decided

Are the tenants entitled to recover their security deposit?

### Background and Evidence

The tenant attending testifies that this tenancy started on April 15, 2010. This was a month to month tenancy. Rent for this unit was \$750.00 per month and was due on the first of each month. The tenants paid a security deposit of \$700.00 on April 12, 2010. The tenants moved from the rental unit on May 01, 2011.

The tenant attending testifies that she gave the landlord their forwarding address in writing on May 15, 2011. The tenant testifies that they did not authorise the landlord to make any deductions from their deposit and testifies that the landlord did not give them opportunity to attend a move in or a move out inspection of the property at the start or end of the tenancy.

The tenant attending testifies the landlord sent a money order for \$257.36 with a letter informing them the landlord had deducted \$442.64 from their security deposit. The tenant has provided a copy of the money order and letter dated May 20, 2011. The tenant states as they did not authorise the landlord to keep all or part of their deposit and because the landlord did not do the inspections with them at the start and end of the tenancy they now seek to recover double their security deposit as it was not returned to them within 15 days of the landlords receiving their forwarding address.

### Analysis

Section 38(1) of the *Act* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenants forwarding address in writing to either return the security deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security deposit to the tenant.

Based on the above and the evidence presented I find that the landlord did receive the tenants forwarding address in writing on May 15, 2011. As a result, the landlord had until May 30, 2011 to return the tenants security deposit or apply for Dispute Resolution to make a claim against it. I find the landlord only returned \$257.36 of the security deposit within the 15 allowable days and has not filed an application for Dispute Resolution to keep the balance of the deposit. Therefore, I find that the tenants have established a claim for the return of double the balance of the security deposit to the sum of **\$885.28** pursuant to section 38(6)(b) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$885.28**. The order must be served on the respondent and is enforceable through the Provincial Court 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: October 17, 2011.

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Residential Tenancy Branch