



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an application by the tenants for a monetary order. R.R. appeared at the hearing to represent both herself and the tenant I.W. and the landlord was represented by B.A.

B.A. stated at the hearing that the landlord did not receive the application for dispute resolution and notice of hearing until approximately 3 weeks before the scheduled date of the hearing as she had been away. B.A. did not request an adjournment and the hearing documents had been sent via registered mail to the landlord's address and as B.A. was prepared to respond to the claim, the hearing proceeded.

In their application for dispute resolution, the tenants requested the return of their pet and security deposits totalling \$850.00, but in the material filed with their claim, they requested that they be awarded double the deposits. I find that the supplementary material clearly identifies the claim as a claim for double the deposits and have treated the claim accordingly.

### Issue to be Decided

Are the tenants entitled to an order awarding them double their security and pet deposits?

### Background and Evidence

The facts are not in dispute. The tenancy began on February 1, 2012 and ended on March 28, 2012. The tenants paid a \$425.00 security deposit and a \$425.00 pet deposit on December 19, 2011 and gave their forwarding address to the landlord's agent on March 28, 2012. As of the date of the hearing, the tenants had not received any monies whatsoever from the landlord.

B.A. testified that the landlord is ill and has limited finances. She stated that a cheque for part of the deposits has been mailed to the tenants.

### Analysis

Section 38(1) of the Act provides that the landlord must return the security and pet deposits 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's agent received the tenants' forwarding address on March 28, 2012 and I find the landlord failed to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address and is therefore liable under section 38(6) which provides that the landlord must pay the tenants double the amount of the security and pet deposits, totaling \$1,700.00. I note that the landlord's illness and financial circumstances do not relieve her of this obligation.

I find that the tenants are also entitled to recover the \$50.00 filing fee paid to bring their application and I award the tenants a total of \$1,750.00. I grant the tenants a monetary order under section 67 which may be filed in the Small Claims Division of the Provincial Court for enforcement. If the tenants receive and are able to negotiate the cheque which B.A. stated has been mailed to them, it will serve to reduce the enforceable amount of the order.

### Conclusion

The tenants are awarded \$1,750.00.

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: June 22, 2012

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Residential Tenancy Branch