



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC, MNSD, FF

### Introduction

This hearing concerns an application by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement, compensation for return of the double amount of the original security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for the tenancy which began on January 1, 2003. Monthly rent was \$900.00, and a security deposit of \$450.00 was collected. There is no evidence of a move-in condition inspection report.

Arising from an application by the landlord, a hearing was held on January 27, 2012 (file # 786142). Pursuant to a decision by that same date, an order of possession was issued in favour of the landlord effective February 15, 2012. Subsequently, while rent had been paid in full to the end of February 2012, the tenants vacated the unit on February 16, 2012. There is no evidence of a move-out condition inspection report.

Thereafter, by letter dated March 2, 2012, the tenants requested the return of their security deposit and provided a forwarding address. To date the landlord has neither returned any portion of the tenants' security deposit nor filed an application for dispute resolution.

In their application the tenants seek the double return of their security deposit, in addition to a reimbursement of rent for the latter half of February 2012, and recovery of the filing fee.

## Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days of the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and testimony, I find that the landlord neither returned the security deposit, nor filed an application for dispute resolution within 15 days after being informed by the tenants of their forwarding address on March 2, 2012. In the result, I find that the tenants have established entitlement to the double return of their security deposit in the amount of \$900.00 (2 x \$450.00) plus interest calculated on the original amount of the security deposit of \$15.92 (total: \$915.92).

In the absence of any application by the landlord or the results of move-in and / or move-out condition inspection reports, I find that the tenants have also established entitlement to the reimbursement of rent for the period from February 17 to 29, 2012 in the amount of \$403.39, which is calculated as follows:

$$\begin{aligned} \$900.00 \text{ (monthly rent)} \div 29 \text{ (\# days in February)} &= \$31.03 \text{ (daily rent)} \\ \$31.03 \times 13 \text{ (\# days from February 17 to 29)} &= \$403.39 \end{aligned}$$

As the tenants have succeeded with their application, I find that they have also established entitlement to recovery of the \$50.00 filing fee.

## Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$1,369.31** (\$915.92 + \$403.39 + \$50.00).

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*.

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Dated: October 02, 2012.

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Residential Tenancy Branch