



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order to recover double the security deposit and to recover the filing fee from the landlords for the cost of this application. At the outset of the hearing the tenant attending withdraw their application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement;

One of the tenants and the landlords attended the conference call hearing, gave sworn testimony. The landlords and tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

- Are the tenants entitled to a Monetary Order to recover double their security deposit?

### Background and Evidence

The parties agree that this month to month tenancy started on September 1, 2011 and ended on July 31, 2012. The tenant paid a monthly rent of \$1,000.00 on the first of each month. The tenants paid a security deposit of \$500.00 on August 26, 2011.

The tenants gave the landlords notice to end the tenancy on June 29, 2012. This notice was effective on July 31, 2012. The tenants also provided a forwarding address to the landlord within this notice to end the tenancy on June 29, 2012.

The tenants submit that they completed the move out by July 29, 2012. The tenants testify that they did not give permission to the landlord to keep all or part of their security deposit. The tenant states that they therefore seek to recover double the security deposit as the landlord did not return it within 15 days of the end of the tenancy.

The landlords submit that the tenants did not leave the stove; fridge; and bathroom clean to normal standards at the end of the tenancy. Excessive garbage had to be removed from the property by the landlord. The tenants also failed to remove some of their belongings. The landlord testifies that the repairs and cleaning took longer than normal seven business days and that the repairs went beyond what constitutes normal wear and tear.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to section 38(1) of the *Act* which 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 landlords did receive the tenants forwarding address in writing on June 29, 2012 and the tenancy ended on July 31, 2012. As a result, the landlord had until August 15, 2012 to return the tenants security deposit. I find the landlord did not return the security deposit and the landlord

has extinguished their right to file a claim against the deposit as the landlord failed to complete either a move in or move out condition inspection of the property with the tenant or complete a written report of the inspection in accordance with s. 24(2) and 36(2) of the *Act*. Therefore, I find that the tenants have established a claim for the return of double the security deposit pursuant to section 38(6)(b) of the *Act*.

As the tenants' application has been successful I find the tenants are entitled to recover the \$50.00 filing fee from the landlord pursuant to s. 72(1) 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 \$1,050.00. The order must be served on the Respondents 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: December 04, 2012.

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Residential Tenancy Branch