



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call in repose to the tenants' application for the return of double the security deposit and to recover the \$50.00 filing fee paid for this application.

The tenants and one of the landlords attended the conference call hearing and gave sworn testimony. The 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 recover double the security deposit?

### Background and Evidence

The parties agree that this tenancy started on January 01, 2011 for a fixed term which ended on December 31, 2011. The tenancy then continued on a month to month basis and ended on August 31, 2012. Rent for this unit was \$1,950.00 per month due on the first day of each month in advance. The tenants paid a security deposit of \$975.00 on January 01, 2011.

The tenants testify that they attended both the both in and move out condition inspection with the landlord at the start and end of the tenancy. The tenants' testify that they provided the landlord with their forwarding address in writing on the move out condition inspection report on August 31, 2012. The landlords did not return their security deposit within the allowable 15 days and the tenants now seek to recover double the security deposit from the landlords and their filing fee of \$50.00. The tenants testify that they did not give the landlord written permission to keep all or part of their security deposit.

The landlord testifies that he was not aware that they only had 15 days to either return the security deposit or file an application to keep it. The landlord testifies that as the move out condition inspection was carried out in the late evening the landlords did not determine any damage to the rental unit until the next morning when they returned to the unit.

### 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 landlords did receive the tenants forwarding address in writing on August 31, 2012. As a result, the landlords had until September 15, 2012 to return the tenants security deposit or file an application to keep it. I find the landlords did not return the security deposit and have not filed an application to keep it. Therefore, I find that the tenants have established a claim for the

return of double the security deposit to the sum of **\$1,950.00** pursuant to section 38(6)(b) of the *Act*.

As the tenants have been successful with their claim I find they are also entitled to recover the **\$50.00** filing fee from the landlords 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 **\$2,000.00**. 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: January 24, 2013

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Residential Tenancy Branch

