



# 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 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.

The tenants and one of the landlords attended the conference call hearing and 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. The parties confirmed receipt of evidence. 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 for double the security deposit?

### Background and Evidence

The parties agree that this month to month tenancy started on June 01, 2012. Rent for this unit was \$1,100.00 per month due on the first day of each month. The tenants paid a security deposit of \$550.00 on May 14, 2012. Both parties attended a move in and a move out inspection of the unit and the tenants provided their forwarding address in writing to one of the landlords on February 27, 2013 in person.

The tenants' testify that the landlord did not return the security deposit within the allowable 15 days. The tenants testify that they did not give the landlord permission to keep the security deposit and had correspondence with the landlord attending about returning the security deposit

The tenants' testify that since filing their application the landlords did return a portion of the security deposit of \$382.00 and the balance has been withheld by the landlords.

The landlord attending testifies that the tenants gave their forwarding address to the landlord's elderly mother who is also a landlord. The landlord testifies that his mother lost the forwarding address and on March 14, 2013 the landlord sent the tenant a text message asking for the address again. The landlord testifies that he also e-mailed the tenant but the tenants took a few days to reply and therefore the landlord could not drop of a cheque to the tenants. The landlord testifies that when they got the tenants address again he did send a cheque for \$382.00 and withheld the balance of the security deposit due to damage in the rental unit.

### 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 February 27, 2013 and if this address was then misplaced by the landlords that is the landlords responsibility and not the tenants. As a result, the landlords had until March 14, 2013 to return the tenants security deposit or apply

for Dispute Resolution to make a claim against it. I find the landlords did not return the security deposit and have not filed an application for Dispute Resolution to keep the deposit. 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 landlord has returned a portion of the security deposit I will deduct that amount of \$382.00 from the tenants' monetary award.

I further find the tenants are entitled to recover the \$50.00 filing fee from the landlords pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the tenants' for the following amount:

Double the security deposit	\$1,100.00
Filing fee	\$50.00
Less amount already returned	(-\$382.00)
Total amount due to the tenants	\$768.00

### 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 \$768.00. 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: June 21, 2013

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Residential Tenancy Branch

