



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- authorization to obtain a return of their security deposit pursuant to section 38; and
- authorization to recover their filing fee for this application pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss the tenants' application with one another. The landlord confirmed that he received a copy of the tenants' dispute resolution hearing package sent by the tenants by registered mail on April 29, 2013. I am satisfied that the tenants served this package to the landlord in accordance with the *Act*.

### Issues(s) to be Decided

Are the tenants entitled to a monetary award for the return of a portion of their security deposit? Are the tenants entitled to a monetary award equivalent to the amount of their security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*? Are the tenants entitled to recover the filing fee for from the landlord?

### Background and Evidence

This tenancy began on or about May 1, 2008. The tenancy was initially a one-year fixed term tenancy between the tenants' daughter and son-in-law and the landlord for both the upper and lower rental units in this duplex rental unit. The tenants initially sublet the upper level from their daughter and son-in-law. Monthly rent for the tenants' upper rental unit was set at \$950.00, payable to the landlord in advance on the first of each month. Both parties agreed that when the tenants' daughter and son-in-law vacated the rental unit in August 2010, the \$950.00 security deposit paid in 2008 remained in force and the landlord continues to hold the \$950.00 security deposit for this tenancy.

The landlord confirmed that on February 28, 2013, he received the tenants' written notice to end this tenancy by March 31, 2013. Although the tenants left the rental unit on March 16, 2013, they did not return their keys and clean up the rental unit until later in March 2013. The landlord also confirmed that the tenants provided him with their written forwarding address by registered mail sent by the tenants on April 5, 2013. The landlord claimed that there was rent and/or utilities owing from this tenancy. He did not return all of their security deposit directly to them. The tenants admitted that there was \$355.28 owing at the end of this tenancy.

The tenants applied for a return of their \$950.00 security deposit plus their filing fee for their application.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to settle all issues arising out of this tenancy under the following final and binding terms:

1. The landlord agreed to send the tenants a negotiable cheque in the amount of \$644.73 by registered mail on July 22, 2013.
2. Both parties agreed that the landlord's provision of the negotiable cheque for \$644.73 outlined above constituted a final and binding resolution of all monetary issues arising out of this tenancy for both sides.
3. Both parties agreed that they will not initiate any new or further application for dispute resolution arising out of this tenancy.

### Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenants' favour in the amount of \$644.73. I deliver this Order to the tenants in support of the above agreement for use **only** in the event that the landlord does not abide by the terms of the above settlement. The tenants are provided with these Orders in the above terms and the landlord must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: July 22, 2013

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Residential Tenancy Branch

