



# 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 for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenants.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on May 1, 2013 in accordance with Section 89. The tenants submit this service was completed with both tenants present.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

### Background and Evidence

The tenants submit the tenancy began on September 1, 2012 as a month to month tenancy for a monthly rent of \$1,300.00 due on the 1<sup>st</sup> of each month with a security deposit of \$500.00 paid on August 22, 2012. The tenants also submit the tenancy ended on April 1, 2013.

The tenants testified they provided the landlord with their forwarding address on April 1, 2013 in writing at the rental unit as the tenants were returning possession to the landlord and the new tenants were moving in.

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Based on the undisputed testimony of the tenants, I find the landlord received the tenants' forwarding address on April 1, 2013 and as such had until April 16, 2013 to either return the deposit to the tenants or file an Application for Dispute Resolution seeking to claim against the deposit.

As the tenants submit they have not received the security deposit and I have no evidence of the landlord submitting an Application for Dispute Resolution before me I find the landlord has failed to comply with Section 38(1).

I therefore find the tenants are entitled to double the security deposit pursuant to Section 38(6).

### Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,050.00** comprised of \$1,000.00 double the security deposit and the \$50.00 fee paid by the tenants for this application.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be enforced 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: July 23, 2013

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Residential Tenancy Branch