



# 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 in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for return of the security deposit - Section 38
2. An Order to recover the filing fee for this application - Section 72.

The Tenants and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Are the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The following are undisputed facts: The tenancy began on September 1, 2011 and ended on April 30, 2012. At the outset of the tenancy, the Landlord collected a security deposit from the Tenants in the amount of \$1,300.00. The Tenants provided the forwarding address in writing on May 3, 2012. The security deposit has not been returned to the Tenants.

The Landlord states that an application to retain the security deposit was made a couple of months ago but no hearing date was obtained. The Tenant stated at the hearing that return of double the security deposit was not being waived.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord failed to make an application for dispute resolution claiming against the security deposit and failed to return the security deposit within 15 days of receipt of the Tenant's forwarding address, I find that the Landlord is required to pay the Tenants double the security deposit plus zero interest in the amount of **\$2,600.00**. The Tenants are also entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$2,650.00**.

### Conclusion

I Grant the Tenant an Order under Section 67 of the Act for **\$2,650.00**. If necessary, this order may be filed in the Small Claims Court and 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 Act.

Dated: July 16, 2013

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Residential Tenancy Branch