



# 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 a tenant's application for return of double the security deposit. The landlords did not appear at the hearing. The tenant submitted the hearing packages sent to the landlords via registered mail at their residence and place of conducting business as landlords. The hearing packages were returned to the tenant by Canada Post with the notation that both packages were "refused by recipient".

Section 90 of the Act deems a person to have received registered mail sent to them five days after it is mailed so that a person cannot avoid service by refusing to accept registered mail.

In light of the above, I found the landlords served in accordance with the Act and I proceeded to hear from the tenant without the landlords present at the hearing.

### Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for double the security deposit?

### Background and Evidence

The tenancy commenced December 15, 2010 and the landlords collected \$665.00 from the tenant for a security deposit that was supposed to be \$662.50. The tenancy ended February 28, 2013. The tenant participated in a move-out inspection with the landlord and returned the keys to the landlord on March 1, 2013. Also on March 1, 2013 the tenant provided her forwarding address to the landlord in writing.

On March 6, 2013 the landlord sent the tenant a letter at her new address indicating the landlords would not be returning the security deposit.

The tenant testified that the landlords did not prepare move-in or move-out condition inspection reports and that the tenant did not authorize the landlords to make any deductions from her deposit in writing.

### Analysis

Having heard the tenant did not authorize the landlord to make any deductions from the security deposit in writing, pursuant to section 38(1) of the Act the landlords were required to either return the security deposit to the tenant or make an application for dispute resolution within 15 days from the later of: the day the tenancy ended or the date the landlord received the tenant's forwarding address in writing.

Where a landlord does not comply with section 38(1) of the Act, section 38(6) requires that the landlord must pay the tenant double the security deposit.

I accept the tenant's undisputed testimony and the landlord's letter of March 6, 2013 submitted as evidence that the tenant provided the landlord with her forwarding address in writing on March 1, 2013. Since the landlords did not refund the security deposit or file an Application for Dispute Resolution to retain the deposit within 15 days of March 1, 2013 I find the landlords failed to comply with section 38(1) of the Act and the tenant is entitled to receive double the security deposit under section 38(6) of the Act.

As the tenant was successful in this application, the tenant is awarded the filing fee paid for making this application. Therefore, I provide the tenant with a Monetary Order for the \$1,325.00 claimed (\$662.50 x 2) plus \$50.00 for the filing fee for a total award of \$1375.00.

The tenant must serve the enclosed Monetary Order upon the landlords and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

### Conclusion

The tenant has been provided a Monetary Order in the amount of \$1375.00 to serve and enforce as necessary.

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: August 27, 2013

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Residential Tenancy Branch

