



# 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 a conference call in response to an application made by the tenant for the return of all or part of the pet damage and security deposit and to recover the filing fee from the landlords for the cost of this application.

The tenant filed this application and served the each landlord by registered mail with a copy of the application and Notice of Hearing documents. The Canada Post tracking numbers were provided as evidence for this method of service and the tenant testified that one of the landlords had signed for both packages on October 1, 2013. Section 90 of the Residential Tenancy Act (referred to as the 'Act') states that a document served by mail is deemed to have been received five days later. Based on this, the Canada tracking numbers and the absence of any evidence from the landlords to dispute this, I find that the landlords were served the hearing documents as required by the *Act*.

The tenant attended the hearing to give affirmed testimony and also provided documentary evidence in advance of the hearing. There was no appearance by the landlords, despite being served notice of this hearing in accordance with the *Act*. All of the testimony and documentary evidence submitted by the tenant was carefully considered in this decision.

### Issue(s) to be Decided

Is the tenant entitled to the return of double the amount of the security deposit?

### Background and Evidence

The tenant testified that the tenancy started on January 1, 2005 for a fixed term of one year after which it continued on a month to month basis. Rent in the amount of \$1,600.00 was payable on the first day of each month by the tenant which then went up to \$1,700.00 before the tenancy was ended by the tenant for July 31, 2013.

The tenant testified that she paid the landlord \$800.00 as a security deposit on December 4, 2004 and the tenant provided a receipt issued by the landlord for this amount as evidence for this hearing.

The tenant testified that she provided the landlord with a forwarding address on August 1, 2013 by registered mail. The Canada Post tracking number and the letter with the forwarding address was provided as evidence. The tenant testified that the Canada Post tracking report shows that the landlord received the tenant's forwarding address on August 3, 2013.

The tenant testified that the landlords have failed to return the security deposit to her and as a result claims double the amount back from the landlord.

The tenant also claims \$50.00 from the landlords for the bank charges she incurred as a result of the landlord failing to return post dated cheques for the tenancy. However, the tenant did not submit any documentation relating to these charges.

### Analysis

The tenant provided a copy of the receipt which shows the landlord took \$800.00 as a security deposit from the tenant and I accept this was the amount paid by the tenant.

Section 38(1) of the *Residential Tenancy Act* states that, within 15 days of the landlord receiving the tenant's forwarding address in writing after the tenancy ends, the landlord must repay the security deposit or make an application to claim against it. The tenant testified that the tenancy was ended by her for July 31, 2013 although she actually moved out on July 28, 2013. In the absence of any disputed testimony from the landlord, I accept that the tenancy ended on this date.

I find the tenant served the forwarding address in writing to the landlords in accordance with the *Act* and as a result the landlord failed to return the security deposit to the tenant or make an application to keep the deposit within the timelines stipulated by the *Act*.

Section 38(6) of the *Act* states that if a landlord does not comply with the above, the landlord must pay the tenant double the amount of the deposits. Therefore, the tenant is entitled to the return of double the amount of the security deposit in the amount of \$1,600.00 plus interest which is calculated as \$28.30.

As the tenant has been successful in this monetary claim, I also award the tenant the \$50.00 filing fee for the cost of this application for a total award of \$1,678.30.

Conclusion

For the reasons set out above, I grant the tenant a monetary order under section 67 of the *Act* in the amount of \$1,678.30. This order must be served on the landlords and may then 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 *Residential Tenancy Act*.

Dated: November 07, 2013

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Residential Tenancy Branch

