



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### 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 both tenants and their advocate.

The tenants provided documentary evidence each 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)* by registered mail on February 25, 2014 in accordance with Section 89. As per Section 90, the documents are deemed received by each landlord on the 5<sup>th</sup> day after it was mailed.

While the tenants provided copies of the registered mail packages that had been returned by Canada Post and marked as unclaimed, I find that by failing to claim registered mail the landlords are deliberately attempting to avoid service. Based on the evidence of the tenants, I find that each landlord has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issue to be decided is whether the tenants are entitled to a monetary order for double the amount of the security deposit, pursuant to Section 38, of the *Act*.

### Background and Evidence

The tenants submit the tenancy began as a month to month tenancy beginning on June 15, 2012 for a monthly rent of \$1,000.00 due on the 1<sup>st</sup> of each month with a security deposit of \$500.00 paid. The tenancy ended on December 31, 2013

The tenants have provided into evidence the following documents:

- A copy of a receipt dated May 16, 2012 for a deposit of \$500.00 and an advance payment for June of \$500.00 signed by the landlord; and
- A copy of a letter dated January 6, 2014 from the tenants to the landlord requesting return of their deposit and providing their forwarding address.

The tenants testified that they mailed the landlords the letter dated January 6, 2014 through regular mail.

### 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 tenants' undisputed evidence and testimony I find the tenancy ended on December 31, 2013 and allowing for 5 days for mail delivery I also find that the landlords would have received the tenants' forwarding address no later than January 11, 2014. Therefore, the landlords had until January 26, 2014 to either file an Application for Dispute Resolution seeking to claim against the deposit or return the deposit in full to the tenants.

As there is no evidence before me that the landlords have either filed an Application for Dispute Resolution or returned the deposit, I find the landlords have failed to comply with Section 38(1) of the *Act* and the tenants are entitled to return of double the deposits pursuant to Section 38(6).

### Conclusion

I find the tenants is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,000.00** comprised of double the security deposit..

This order must be served on the landlords. If the landlords fail 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: June 12, 2014

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Residential Tenancy Branch

