



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MARINE VIEW APARTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, MNSD

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenants for the return of double the amount of their pet damage and security deposits (the “Deposits”) from the Landlord.

One of the Tenants appeared for the hearing and provided affirmed testimony and written evidence in advance of the hearing. The Tenant also referred to photographic evidence which she had provided outside of the time limit set out in the Rules of Procedure and this was not before me during the hearing.

There was no appearance for the Landlord during the 22 minute duration of the hearing. As a result, I turned my mind to the service of the documents for this hearing by the Tenants to the Landlord.

The Tenant testified that she personally served a copy of the Application and Notice of Hearing documents to the caretaker of the building who was the agent of the Landlord named on the Application. The Tenant testified that they paid rent to the caretaker and he was the one who they dealt with during the tenancy and paid the Deposits to.

I noted that the Landlord has submitted two original receipts by hand to the Residential Tenancy Branch prior to this hearing. Therefore, this supports the Tenant’s testimony that the Landlord was put on notice of this hearing. Based on the above evidence, I find that the Tenant served the Landlord’s agent with notice of this hearing in accordance with Section 89(1) (b) of the Act. As a result, I continued to hear the undisputed evidence of the Tenant which I carefully considered in this decision.

### Issue(s) to be Decided

- Are the Tenants entitled to double the amount of the Deposits?

### Background and Evidence

The Tenant testified that this tenancy began on June 1, 2013 and was for a fixed term of one year. A written tenancy agreement was completed and rent was payable under the agreement in the amount of \$1,100.00 on the first day of each month. The Tenant testified that they paid the Landlord a total amount of \$550.00 as a security deposit and \$450.00 as a pet damage deposit in May, 2013.

The Tenant testified that after giving notice to the Landlord, they vacated the rental suite on June 1, 2014 and the Tenants provided the caretaker with a forwarding address which they documented on the move out condition inspection report on the same day.

The Tenant testified that she called the Landlord 15 days after June 1, 2014 and asked the Landlord for the Deposits at which point the Landlord informed her that he had no intention of returning them to her. The Tenant confirmed that the Landlord still retains their Deposits and now seeks to recover double the amount as required by the Act.

The Tenant was asked about the two refund receipts that had been submitted by the Landlord prior to this hearing. When I explained to her that they seemed to relate to a party not named on the Application, the Tenant had no idea of these receipts and who this third party was.

### Analysis

Section 38(1) of the Act states 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 to claim against it.

I accept the Tenant's oral evidence that the Landlord was served their forwarding address in writing on the condition inspection report. As a result, if the Landlord had no intention to return the Deposits to the Tenants for any reason, the Landlord would have been required to make an Application to claim against it by June 16, 2014, which the Landlord did not do.

The Tenant confirmed that the Landlord still retains their Deposits in the amount of \$1,000.00. The Landlord also failed to provide any written explanation or appear for the hearing to explain why the two original refund receipts were submitted prior to the hearing and how this related to this dispute. The receipts seem to relate to an unknown third party with the same rental unit address and I am confused as to the reason why this was submitted by the Landlord. The Tenant was also confused about this.

Section 38(6) of the Act states that if the Landlord does not comply with Section 38(1) of the Act, the Landlord must pay the Tenants double the amount of the Deposits.

Furthermore, the Act does not allow a Landlord to keep a pet damage deposit for reasons not associated with damaged caused by a pet. The Tenant explained that although her photographic evidence was not before me for this hearing, the photographs showed that there was no damage to the rental unit.

The Tenants made a claim for double the amount of the Deposits. Therefore, I find that they are entitled to a total amount of \$2,000.00 in monetary compensation  $((\$550 + \$450) \times 2)$  in accordance with the above provisions of the Act.

### Conclusion

For the reasons set out above, I grant a Monetary Order in the amount of **\$2,000.00** in favor of the Tenants pursuant to Section 67 of the Act. This order must be served on the Landlord and may then be filed in the Provincial Court (Small Claims) 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: December 16, 2014

---

Residential Tenancy Branch

