



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This is an application filed by the tenant for a monetary order under section 67 of the Residential Tenancy Act for the return of double the security and pet damage deposits (the deposits) pursuant to section 38 of the Act and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The landlord, J.L. confirmed receipt of the tenant's notice of hearing package. Tenant, T.H.(the tenant) has confirmed receipt of the landlord's documentary evidence.

The landlord confirmed that he received a copy of the tenants' dispute resolution hearing package sent by the tenant on September 26, 2014 by registered mail. On the basis of this evidence, I am satisfied that the landlord was duly served with the dispute resolution package pursuant to sections 89 of the Act.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order for the return of double the security and pet damage deposits and recovery of the filing fee?

### Background and Evidence

This tenancy began on August 24, 2013 on a fixed term tenancy ending on August 31, 2014, as shown by the submitted copy of the signed tenancy agreement dated July 30, 2013. Both parties agreed that the tenancy ended on August 31, 2014. The monthly rent was \$1,425.00 and a security deposit of \$712.50 and a pet damage deposit of \$250.00 were paid on July 30, 2013.

The tenant stated that the tenancy ended on August 31, 2014 and that the tenants' forwarding address in writing was given to the landlord on September 1, 2014. The

tenant stated that as of the date of filing this application on September 24, 2014 the landlord had not returned the combined \$962.50 in deposits.

The landlord confirmed in his direct testimony that the deposits of \$962.50 were being held and have not been returned to the tenants due to the landlord's claims for damages/cleaning. The landlord confirmed in his direct testimony that he did not have the written permission of the tenant to retain the deposits nor had the landlord made an application for dispute resolution to retain the deposits.

### Analysis

Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within 15 days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award pursuant to subsection 38(6) of the Act equivalent to the value of the security deposit. However, pursuant to paragraph 38(4)(a) of the Act, this provision does not apply if the landlord has obtained the tenant's written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy.

Both parties have confirmed that the landlord did not return the combined \$962.50 deposits within 15 days after the end of the tenancy. The landlord has confirmed that he did not have the permission of the tenants to retain the two deposits nor has the landlord made an application for dispute resolution to make a claim for damages and to offset the claim.

I find that the tenants have established a claim for the return of the combined pet and security deposits under section 38 of the Act for \$962.50. In accordance with section 38(6) of the Act, I issue an additional monetary award of \$962.50 as the landlord has failed to comply with the Act. This results in a monetary award, of \$1,925.00, the amount equivalent to double the value of the deposits retained by the landlord.

Having been successful in their application, I also find that the tenants are entitled to the recovery of their \$50.00 filing fee from the landlord.

### Conclusion

I grant a monetary order to the tenants for \$1,975.00 for the return of double their security and pet damage deposits, plus the recovery of their filing fee.

The tenant is provided with these Orders in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: April 1, 2015

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Residential Tenancy Branch

