



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an application by the tenants for an order compelling the landlord to return their security deposit. Despite having been served with the application for dispute resolution and notice of hearing sent via registered mail on December 19, the landlords did not participate in the conference call hearing.

### Issue to be Decided

Should the landlords be ordered to return the deposit?

### Background and Evidence

The relevant facts are not in dispute. The tenancy began on December 1, 2013 (although the tenants had access to the property from November 16) at which time the tenants paid a \$950.00 security deposit, and ended on November 30, 2014. The tenants provided a forwarding address in writing via a text message sent on November 26, 2014, to which the landlords responded.

### Analysis

Section 38(1) of the Act provides that within 15 days of the later of the last day of the tenancy and the date the landlord receives the tenant's forwarding address in writing, the landlord must either return the deposit in full to the tenant or file an application for dispute resolution to make a claim against the deposit. Although the Act does not contemplate text messaging, I find that the text message sent on November 26 is equivalent to writing and I find that the landlord DM received the forwarding address on that date as she responded to the message to confirm it was received.

Section 38(6) of the Act provides that where a landlord fails to comply with section 38(1), the landlord must pay to the tenant double the security deposit. Although the

tenants did not make a claim for double the deposit, Residential Tenancy Policy Guideline #17 provides that unless the tenant has specifically waived the doubling of the deposit, the arbitrator will award double the deposit if the landlord has failed to file a claim against it within the prescribed timeframe as outlined above.

I find that the landlords failed to comply with section 38(1) and are now liable to pay the tenants double the security deposit. I award the tenants \$1,900.00. I further find that as the tenants have been successful in their claim, they are entitled to recover the \$50.00 filing fee paid to bring their application for a total entitlement of \$1,950.00. I therefore award the tenants \$1,950.00 and grant them a monetary order under section 67 for that sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The tenants are awarded \$1,950.00.

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: July 22, 2015

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Residential Tenancy Branch

