



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order. The hearing was conducted via teleconference and was attended by three tenants and the landlord's agent.

While the tenants had applied for compensation unrelated to the security deposit they only noted that they were seeking the value of the security deposit. As such, I determined that the tenants had failed to disclose the full particulars of that claim. I therefore, dismiss that portion of the tenant's claim with leave to reapply.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for return of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the tenancy began on September 1, 2013 as a 1 year fixed term tenancy and which was renewed for an additional 4 month fixed term for the monthly rent of \$1,800.00 due on the 1<sup>st</sup> of each month with a security deposit of \$900.00 paid. The tenancy ended on December 31, 2014.

The tenants submit they provided their forwarding address verbally to the landlord near the end of December 2014. The landlord's agent testified the tenant's forwarding address was received by the landlord on or about January 20, 2015 when they received the tenant's Application for Dispute Resolution. The agent confirmed the landlord has not filed an Application for Dispute Resolution to claim against the deposit.

The parties agreed during the hearing that the tenants owe the landlord \$403.00 for damage caused to the fridge by the tenants.

### 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 in writing, 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.

As the tenants failed to provide the landlord with their forwarding address in writing before the end of the tenancy, from their own testimony, I accept the landlord received the tenant's forwarding address on January 20, 2015.

As such, I find the landlord was required to either return the deposit or file an Application for Dispute Resolution to claim against the deposit no later than February 4, 2015 to be compliant with Section 38(1). As per the landlord's agent's testimony I accept the landlord has not filed such an Application and I therefore find the landlord has failed to comply with Section 38(1).

As a result, I find the tenant is entitled to double the amount of the security deposit, pursuant to Section 38(6) less the amount agreed upon in this hearing for repair to the fridge.

### Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,420.00** comprised of \$1,800.00 double the amount of the security deposit and the \$50.00 fee paid by the tenant for this application less \$403.00 fridge repairs.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant 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: July 29, 2015

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Residential Tenancy Branch

