



# 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 was convened by way of conference call in response to the tenants' application for a Monetary Order to recover the security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

The female tenant and landlord attended the conference call hearing and gave sworn testimony. The landlord and tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

### Issue(s) to be Decided

- Are the tenants entitled to recover the security and pet deposit?
- Are the tenants entitled to have the security and pet deposit doubled?

### Background and Evidence

The parties in attendance agreed that this month to month tenancy started on February 01, 2011. Rent for this unit was \$1,600.00 per month due on the 1<sup>st</sup> of each month. The tenants paid a security deposit of \$800.00 on February 01, 2011 and a pet deposit of \$300.00 on February 15, 2011. The tenancy ended on February 28, 2013. The tenants provided a forwarding address in writing on January 31, 2013.

The tenant testified that the landlord has failed to return the security and pet deposit within 15 days of receiving the tenants' forwarding address in writing. The tenant testified that the landlord did not give the tenant opportunity to attend a move in or a move out condition inspection of the unit. The tenant testified that they did not give the landlord permission to keep all or part of the security or pet deposit and as the landlord has failed to return the security or pet deposit, the tenants seek to have the security and pet deposit doubled to an amount of \$2,200.00.

The landlord agreed that he did receive the tenants' forwarding address in writing on January 31, 2013. The landlord testified that the tenants had withheld some of their rent for the last three months prior to the end of the tenancy. Due to this the landlord thought it was fair to keep part of the tenants' security and pet deposit. The landlord testified that he had returned an amount of \$375.00 on April 04, 2013 by email transfer; however, the tenants did not accept that and the e-transfer was later returned to the landlord.

The tenant testified that two weeks after moving out they emailed the landlord requesting that he return their security and pet deposit. The landlord responded and said he was withholding the majority of it for damages and rent. The tenants did not agree that they owed rent or money for damages to the unit. The tenant agreed that the landlord had sent them an email transfer for funds of \$375.00 but they choose not to accept it as it was not the full amount of the security and pet deposits.

### Analysis

Section 38(1) of the *Residential Tenancy Act (Act)* says that a landlord has 15 days from the end of the tenancy agreement or from the date that the landlord receives the tenant's forwarding address in writing to either return the security and pet deposit to the tenant or to make a claim against it by applying for Dispute Resolution. If a landlord does not do either of these things and does not have the written consent of the tenant to keep all or part of the security or pet deposit then pursuant to section 38(6)(b) of the *Act*, the landlord must pay double the amount of the security and pet deposit to the tenant.

Therefore, based on the above and the evidence presented I find that the landlord did receive the tenants' forwarding address in writing on January 31, 2013. As a result, the landlord had

until February 15, 2014 to return all of the tenants' security and pet deposit or file a claim to keep it. As the landlord failed to do so, the tenants have established a claim for the return of double the security and pet deposit to an amount of **\$2,200.00**, pursuant to section 38(6)(b) of the *Act*. There has been no accrued interest on the security or pet deposit for the term of the tenancy.

As the tenants' claim has merit I find the tenants are entitled to recover the filing fee of **\$50.00** from the landlord pursuant to s. 72(1) of the *Act*.

### Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$2,250.00**. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court 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: August 25, 2015

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Residential Tenancy Branch

