



# Dispute Resolution Services

Page: 1

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 an Application for Dispute Resolution (the “Application”) made by the Tenants for: the return of their security deposit; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”); and, to recover the filing fee from the Landlord.

The Tenants appeared for the hearing and the male Tenant provided affirmed testimony as well as documentary evidence prior to the hearing. However, there was no appearance for the Landlord during the 12 minute duration of the hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Tenants for this hearing.

The Tenant testified that he served the Landlord with a copy of the Application and the Notice of Hearing documents by registered mail on June 2, 2015. The Tenant provided the Canada Post tracking number into oral evidence and this was noted on the inside of the file. The Canada Post website indicates that this was received and signed for by the Landlord on June 3, 2015.

As a result, based on the undisputed evidence of the Tenants, I find that the Landlord was served with the required documents on June 3, 2015 pursuant to Section 89(1) (c) of the Act. The hearing continued to hear the undisputed evidence of the Tenants.

At the start of the hearing the Tenant confirmed that he was not seeking any monetary relief for mold and bug infestation indicated on his Application. Therefore, I only dealt with the Tenants’ Application for the return of the security deposit.

### Issue(s) to be Decided

Are the Tenants entitled to the return of double the security deposit?

### Background and Evidence

The Tenant testified that this tenancy began on October 1, 2013 and ended on May 1, 2015. Rent was payable in the amount of \$800.00 on the first day of each month. The Tenant testified that they paid the Landlord a \$400.00 security deposit at the start of the tenancy.

The Tenant testified that the Landlord still retains the security deposit and no consent was provided to the Landlord to keep it at the end of the tenancy. The Tenant testified that he attended the Landlord's residence on May 5, 2015 and served him with a handwritten letter with a witness. The Tenant provided a copy of the handwritten letter which contains the Tenants' forwarding address.

The Tenants also provided Facebook correspondence between the parties which indicates that the Landlord was aware that he had 15 days to refund the Tenants' security deposit.

### Analysis

In the absence of the Landlord appearing for this hearing or providing documentary evidence to dispute the evidence presented during the hearing, I make the following findings based on the undisputed evidence which I have considered on the balance of probabilities.

Section 38(1) of the Act states that, within 15 days after the latter 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 undisputed evidence of the Tenant that this tenancy ended on May 1, 2015. I also accept the undisputed evidence of the Tenant that he personally served the Landlord with a forwarding address in writing on May 5, 2015, pursuant to Section 88(a) of the Act.

There is no evidence before me that the Landlord made an Application within 15 days of receiving the Tenants' forwarding address or returned the security deposit back to the Tenants. Therefore, I find that the Landlord has failed to comply with Section 38(1) of the Act.

Section 38(6) of the Act stipulates that if a landlord does not comply with Section 38(1) of the Act, the landlord must pay the tenant double the amount of the deposit. Based on

the foregoing, I find the Tenants are entitled to double the return of their security deposit in the amount of **\$800.00**.

As the Tenants have been successful in this matter, I also award the Tenants the filing fee of **\$50.00** pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Tenants is **\$850.00**.

The Tenants are issued with a Monetary Order which must be served on the Landlord. The Tenants may then file and enforce this order in the Provincial Court (Small Claims) as an order of that court if the Landlord fails to make payment in accordance with the Tenants' written instructions. Copies of this order are attached to the Tenants' copy of this decision.

### Conclusion

The Landlord has breached the Act by failing to deal properly with the Tenants' security deposit. Therefore, the Tenants' are entitled to double the return of their security deposit and recovery of the filing fee in the amount of \$850.00.

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: November 03, 2015

---

Residential Tenancy Branch

