



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlord did not attend the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to return of the security deposit and recovery of the filing fee?

### Background and Evidence

The tenancy started on February 1, 2015 and ended on December 26, 2015. Rent of \$1,100.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$500.00 as a security deposit. Although the parties did a walkthrough of the unit no move-in condition inspection was completed or offered by the Landlord. On the day the Tenants moved out of the unit the Landlord gave the Tenants a cheque for the return of the full amount of the security deposit. This cheque was then subsequently stopped by the Landlord. The Tenant did not provide a forwarding

address in writing to the Landlord prior to making this application. The Tenant confirms that its forwarding address is the same address as contained in the application for dispute resolution.

### Analysis

Section 38 of the Act provides that within 15 days after the later 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 for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Tenant did not provide its forwarding address in writing separately from the application but having confirmed that the address in the application is the Tenants' forwarding address I find that the Landlord will be deemed to have received this address on September 3, 2016. The Landlord therefore must deal with the security deposit within 15 days of September 3, 2016. Should the Tenants fail to receive the full security deposit by September 18, 2016 the Tenants have leave to reapply for return of double the security deposit.

### Conclusion

The application is dismissed with leave to reapply. 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 29, 2016

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Residential Tenancy Branch