



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MNSD, FF

### Introduction

This is an application by the tenants filed under the Residential Tenancy Act (the "Act") a for a monetary order for return of double the security deposit (the "Deposit") and to recover the filing fee for the claim.

The tenant testified that the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on February 12, 2016. The tenant stated that the packages were returned unclaimed by the landlords. Canada post tracking number was provided as evidence of service, the landlords did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlords have been duly served in accordance with the Act. The landlords are cautioned failure to pick up packages are not grounds for review.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Are the tenants entitled to a monetary order for return of double the Deposit?

### Background and Evidence

The tenancy began on September 30, 2015. Rent in the amount of \$3,000.00 was payable on the first of each month. A security deposit of \$1,500.00 was paid by the tenants. The tenancy ended on October 31, 2015.

The tenant testified that the landlord originally indicated that they would return the Deposit. However, the landlord did not send them any money by email or email transfer.

The tenant testified that they did not provide the landlord with a forwarding address prior to making this application.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Return of security deposit and pet damage deposit is defined in Part 2 of the Act.

**Return of security deposit and pet damage deposit**

38 (1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must do one of the following:**

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Under section 38 of the Act, the landlords within 15 days of tenancy ending or the receipt of the forwarding address, whichever is the later, must do one of the following, repay the Deposit or make an application for dispute resolution.

As the tenants have not provided the landlords with their forwarding address requesting the return of their deposit as required by the Act, I find the tenants have failed to prove that the landlords have violated section 38 of the Act.

I find the tenants' application for the return of the Deposit and the penalty provision for double to be premature. Therefore, I dismiss the tenants' application with leave to reapply.

Conclusion

The tenants' application for return of double the Deposit 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: September 22, 2016

---

Residential Tenancy Branch

