



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD FF

### Introduction

This hearing dealt with an application by the tenants for return of their security deposit. The tenants also requested recovery of their \$100 filing fee. Despite being served with the Application for Dispute Resolution and Notice of Hearing sent by registered mail on February 26, 2016, the landlord failed to attend the conference call hearing. The tenants provided a Canada Post receipt for the registered mail service.

### Issue(s) to be Decided

Are the tenants entitled to the requested order?

### Background and Evidence

This tenancy began on May 1, 2015 at which time the tenants paid a security deposit of \$650.00. The tenants vacated the rental unit on December 31, 2015. The tenants provided the landlord with their forwarding address, in writing, on January 13, 2016. A copy of the letter was submitted into evidence. On or about February 5, 2016 the landlord sent the tenants a cheque in the amount of \$150.00. The tenants have not cashed that cheque and it is now stale dated. The tenants also testified that they did not give any written authorization to the landlord to retain all or any part of their security deposit.

### Analysis

Section 38(1) of the *Act* says 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 do one of the following:

- repay any security deposit or pet damage deposit to the tenant with interest; or
- make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) then goes on to say that if a landlord does not comply with the above, the landlord may not make a claim against the deposit(s) and **must pay the tenant double** the amount of the security deposit, pet damage deposit, or both, as applicable.

In the present case, the landlord has not returned the tenant's security deposit and has not filed a claim against the deposit. As a result, the landlord must pay to the tenant double the amount of the deposit in the amount of \$1300.00.

### Conclusion

I find that the tenant has established a total monetary claim of \$1300.00 representing double the security deposit. I find that the tenant is also entitled to recover the \$100.00 filing fee for this application for a total award of \$1400.00. This order may be filed in the Small Claims Court and 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: October 11, 2016

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Residential Tenancy Branch