



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the female tenant and the landlords' agent.

At the outset of the hearing, I noted that the tenants' original Application for Dispute Resolution identified the tenants were seek double the amount of the security deposit in the amount of \$1,150.00 and the filing fee of \$100.00. I also noted that the tenants had submitted a Monetary Order Worksheet that included an additional \$50.00 claim for postage costs to pursue this claim.

I advised the tenant that in order to increase the amount of their claim they were required to submit an Amendment to an Application for Dispute Resolution form identifying the change. Furthermore, I advised that tenant that the *Residential Tenancy Act (Act)* does not provide authority to recover postage costs for pursuing a claim through this process. As a result, I did not accept the tenants' amendment to their claim.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for double the amount of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

### Background and Evidence

The tenants submitted into evidence a copy of a tenancy agreement signed by the parties on August 5, 2009 for a 11 month 25 day fixed term tenancy that converted to a month to month tenancy on August 1, 2010 for a monthly rent of \$1,150.00 due on the 1<sup>st</sup> of each month with a security deposit of \$575.00 paid. The tenancy ended on June 30, 2016.

The tenant submitted that she had originally provided the landlord with an incorrect forwarding address in writing on June 30, 2016 but then send a correction to the landlord by email on July 25, 2016. The tenant submitted they have not received the deposit back from the landlord.

The landlord's agent did not dispute the tenant's testimony in regard to the ending of the tenancy or the date the tenant provided their forwarding address, either on June 30, 2016 or July 25, 2016.

The agent testified that the landlord withheld the security deposit to pay for cleaning of and repairs to the rental property including unpaid utilities over the course of the tenancy. The agent also confirmed that the landlord had not obtained anything in writing from the tenants to authourize the landlord to keep the deposit or filed an Application for Dispute Resolution seeking to claim against the deposit.

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

As per the tenant's undisputed testimony and documentary evidence, I find the landlord received the tenants' correct forwarding address on July 25, 2016 and that to the date of this hearing the landlord has not returned the deposit or filed an Application for Dispute Resolution claiming against the deposit.

As such, I find the landlord has failed to comply with Section 38(1) and as a result, I find the tenants are entitled to double the amount of the security deposit, pursuant to Section 38(6).

### Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,250.00** comprised of \$1,150.00 double the security deposit and the \$100.00 fee paid by the tenants on this application.

This order must be served on the landlords. If the landlords fail to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: March 28, 2017

---

Residential Tenancy Branch