



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNSD, MNDC

### Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenants in which the Tenants applied for a monetary Order for money owed or compensation for damage or loss and for the return of the security deposit.

The male Tenant stated that on July 11, 2017 the Application for Dispute Resolution and the Notice of Hearing were sent to the Landlords, via registered mail. The Agent for the Landlord acknowledged receipt of these documents.

On December 01, 2017 the Tenants submitted evidence to the Residential Tenancy Branch. The male Tenant stated that this evidence was not served to the Landlords. As the evidence was not served to the Landlords, it was not accepted as evidence for these proceedings.

On December 01, 2017 the Landlords submitted a USB device to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was mailed to the Tenants on December 01, 2017. The male Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The Agent for the Landlord stated that on November 30, 2017 the Landlords also submitted 14 pages of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was mailed to the Tenants on December 01, 2017. The male Tenant acknowledged receiving this evidence.

The parties were advised that I was not in possession of the Landlords' 14 pages of evidence. The Agent for the Landlord advised that all of the Landlords' evidence relates to the Landlords' submission that the rental unit was damaged during the tenancy. Upon being advised that damage to the rental unit would not be discussed during this hearing, the Agent for the Landlord acknowledged that the Landlords' evidence was not relevant to these proceedings. As the

Landlords' evidence was not relevant to these proceedings, I do not find it necessary to adjourn these proceedings to provide the Landlords with the opportunity to re-submit the Landlords' evidence.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

### Preliminary Matter

The Agent for the Landlord stated that he understood that damage to the rental unit would be considered at these proceedings.

Rule 2.2 of the Residential Tenancy Branch Rules of Procedure stipulates that a claim is limited to what is stated in the application. The parties were advised that the only issues in dispute at these proceedings were the issues identified in the Tenants' Application for Dispute Resolution.

The parties were advised that the Landlords have the right to file an Application for Dispute Resolution seeking compensation for damage to the rental unit, but that damages to the rental unit would not be the subject of these proceedings.

### Issue(s) to be Decided:

Are the Tenants entitled to the return of security deposit?

### Background and Evidence:

The Landlords and the Tenants agree that:

- a security deposit of \$700.00 was paid;
- this tenancy ended on March 31, 2017;
- the Landlords did not complete a condition inspection report at the start or the end of the tenancy;
- the Tenants did not authorize the Landlords to retain any portion of the security deposit;
- the Landlords did not return any portion of the security deposit; and
- the Landlords did not file an Application for Dispute Resolution claiming against the security deposit.

The male Tenant stated that on April 03, 2017 the Tenants' forwarding address was sent to the Landlords, via registered mail. The Agent for the Landlord acknowledged receiving this forwarding address.

As the Landlords did not file an application claiming compensation for damage to the rental unit, the parties were not permitted to discuss any alleged damages to the unit.

Analysis:

Section 38(1) of the *Act* stipulates 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 either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

On the basis of the undisputed evidence I find that the Landlords failed to comply with section 38(1) of the *Act*, as the Landlords have not repaid the security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the forwarding address was received.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlords did not comply with section 38(1) of the *Act*, I find that the Landlords must pay the Tenants double the security deposit.

Conclusion:

The Tenants have established a monetary claim of \$1,400.00, which is double the security deposit and I am issuing a monetary Order in that amount. In the event the Landlords do not voluntarily comply with this Order, it may be served on the Landlords, filed with the Province of British Columbia 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: December 20, 2017

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Residential Tenancy Branch