



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) for the return of the security deposit, and for the recovery of the filing fee paid for this application.

One of the Tenants was present for the duration of the teleconference hearing while no one called in for the Landlords. The Tenant was affirmed to be truthful in his testimony and stated that the Notice of Dispute Resolution Proceeding package and a copy of their evidence was sent to the Landlords by registered mail. The Tenant provided the registered mail tracking number which is included on the front page of this decision. Entering the tracking number on the Canada Post website confirms that the package was delivered. As such, I find that the Landlords were duly served in accordance with Sections 88 and 89 of the *Act*. The Landlords did not submit any evidence prior to the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issues to be Decided

Are the Tenants entitled to the return of the security deposit?

Should the Tenants be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Tenant provided undisputed testimony on the tenancy. The tenancy began on October 2, 2017 and ended on May 31, 2018. The Tenant stated that he was not provided with a copy of the tenancy agreement, despite requesting this. Monthly rent at the end of the tenancy was \$850.00 and a security deposit of \$425.00 was paid at the outset of the tenancy. The Tenant stated that their forwarding address was provided by text message, as well as in written format. He stated that they left a letter with their forwarding address in the rental unit along with the keys on May 31, 2018.

The Tenant provided further testimony that they did not agree to any deductions from their security deposit and have not received any amount back. The Tenants have applied for the return of double their security deposit in the amount of \$850.00 due to not receiving the deposit back within 15 days. The Tenants submitted into evidence a receipt dated October 2, 2017 for a rent payment in the amount of \$850.00 and a receipt dated October 2, 2017 for the payment of the security deposit in the amount of \$425.00. The Tenants also submitted text message conversations with the Landlord in which they provide their forwarding address again.

The Tenant stated that this text conversation took place on July 3, 2018. In the texts, the Landlord states that they have a recording of the Tenants agreeing that the Landlord may keep the deposit. The Tenant stated that they did not agree to any deductions from their deposit and he was unsure as to the conversation referenced by the Landlord.

### Analysis

I refer to Section 38(1) of the *Act* which states the following:

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.

I accept the Tenant's testimony that the tenancy ended on May 31, 2018 and the forwarding address was provided on the same day. The Tenants confirmed their forwarding address on or around July 3, 2018 in a text message to the Landlord which the Landlord responded to. I also accept the Tenant's testimony that they did not agree in writing to any deductions from the security deposit, as stated in Section 38(4) of the *Act*. There is no evidence before me that the Landlords filed a claim against the security deposit.

As more than 15 days has passed since the tenancy ended and the forwarding address was provided, I find that the Landlords were not in compliance with Section 38(1) of the *Act*. Therefore, I find that Section 38(6) of the *Act* applies, and the Tenants are entitled to the return of double the security deposit. As the Tenants were successful in their application, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee in the amount of \$100.00. Therefore, the Tenants are granted a Monetary Order in the amount of \$950.00.

### Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenants a **Monetary Order** in the amount of **\$950.00** for the return of double the security deposit and for the recovery of the filing fee paid for the application. The Tenants are provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: January 30, 2019

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Residential Tenancy Branch