



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding OHMPROPERTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for return of double the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s)

Are the Tenants entitled to the monetary amounts claimed?

### Background and Evidence

The following are agreed facts: The tenancy originally started on December 1, 2016 on a fixed term. At the outset of the tenancy the Landlord collected \$1,325.00 as a security deposit and \$1,325.00 as a pet deposit. The Parties mutually conducted a move-in inspection on December 1, 2016 with a completed inspection report copied to the Tenants. The Parties subsequently signed another tenancy agreement to start December 1, 2017 on a fixed term to end July 31, 2018. Rent of \$2,748.00 was payable from the second tenancy start date on the first day of each month. The security and pet deposits were carried over without increase. The Tenants paid rent to the end of June 2018 and new tenants moved into the unit on July 1, 2018. No move-out

inspection was offered or conducted by the Landlord. The Landlord received the Tenants' forwarding address on July 26, 2018. On August 23, 2018 the Landlord returned \$1,876.95 to the Tenants.

The Landlord states that it made an application for dispute resolution on February 11, 2019 in relation to damage and losses being claimed against the Tenants. The Landlord states that it was not sure when the tenancy ended, that there was a lot of communication about repairs, and that not all the repairs were made.

The Tenant's application sets out the claimed amount of \$2,670.00 based on its claim for double the combined security and pet deposit of \$5,300.00 with deductions of a previously agreed amount of \$753.05 to the Landlord for damages and losses plus a deduction of the \$1,876.95 already received from the Landlord. Neither Party provided any further evidence in relation to the deduction for damages. The Tenants also claim return of the \$100.00 filing fee.

### Analysis

Section 38 of the Act provides 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 repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the agreed facts that rent was paid for June 2018 and that new tenants moved into the unit on July 1, 2018 I find that the tenancy ended on June 30, 2018. Based on the agreed facts that the Landlord received the Tenants' forwarding address on July 26, 2018 I find that the Landlord had 15 days from this date to make its application to retain any part of the security and pet deposits or to return the full security and pet deposits. As the Landlord did neither I find that the Landlord must now pay the Tenants **\$5,300.00** (\$1,325.00 + \$1,325.00 x 2).

The Tenants' application sets out a final total monetary claim of \$2,670.00 as the amount left after deductions from the **\$5,300.00** of **\$753.05** for damages and losses and the returned amount of **\$1,876.95**. As neither Party gave any evidence contrary to the Tenants' agreement for the damages I find on a balance of probabilities that the Tenants have substantiated that they are entitled to the claimed amount of **\$2,670.00**. As the Tenants have been successful I find that the Tenants are entitled to recovery of the **\$100.00** filing fee for a final monetary entitlement of **\$2,770.00**.

### Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$2,770.00**. If necessary, 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 Act.

Dated: February 22, 2019

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Residential Tenancy Branch