



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for return of the security deposit or pet damage deposit and to recover the filing fee from the landlord for the cost of the application.

One of the tenants attended the hearing, gave affirmed testimony, and represented the other tenant. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call. The tenant testified that the landlord was served with the application and notice of this hearing by registered mail on October 17, 2018 and has provided a photograph of a Registered Domestic Customer Receipt and a Canada Post cash register receipt. However, the Registered Domestic Customer Receipt is not dated, and is covering the portion of the cash register receipt that contains the date. The tenant was permitted to provide a copy of the cash register receipt with the date visible after the hearing had concluded. I have now received it, and it is dated October 17, 2018. I find that the landlord has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlord for return of the security deposit?

### Background and Evidence

The tenant does not recall the date the tenancy began, but testified that this month-to-month tenancy lasted for 6 months ending on September 30, 2018. Rent in the amount of \$1,400.00 per month was payable on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit

from the tenants in the amount of \$700.00 which is still held in trust by the landlord, and no pet damage deposit was paid. The rental unit is a basement suite, and the landlord resided in the upper level of the home.

No move-in or move-out condition inspection reports were completed however the parties walked through the rental unit at the beginning and end of the tenancy. The parties agreed, although not in writing, that the landlord could keep \$150.00 of the security deposit for carpet cleaning, and the landlord would return \$550.00 to the tenants. However, the landlord then said that none would be returned because the landlord was going to replace the carpets.

The tenants have provided a copy of a letter given to the landlord dated September 10, 2018 which requests the full security deposit and contains the tenants' forwarding address. Also provided is a photograph of a note taped to a door, and the tenant testified that it is the September 10, 2018 letter and was posted to the landlord's door on September 10, 2018.

The landlord has not returned any portion of the security deposit and has not served the tenants with an Application for Dispute Resolution claiming against the security deposit.

### Analysis

The law takes a very serious view of trust monies, including security deposits and pet damage deposits. The *Residential Tenancy Act* requires a landlord to return a security deposit in full to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an Application for Dispute Resolution claiming against the security deposit within that 15 day period, and serve the tenant with the application. If the landlord fails to do either, the landlord must repay double the amount to the tenant, unless the tenant agrees otherwise in writing.

In this case, I accept the undisputed testimony of the tenant that the tenants did not agree in writing that the landlord keep any portion. Although the parties had a verbal agreement, the landlord still hasn't returned any portion. I also accept the undisputed testimony of the tenant that the landlord has not served the tenants with an Application for Dispute Resolution, and I have no such application before me.

The tenant testified that he believed the tenancy began on April 1, 2018 and ended on September 30, 2018. The tenants provided a forwarding address to the landlord in writing on September 10, 2018 by posting it to the door of the landlord's residence, which is deemed to have been served 3 days later, or September 13, 2018. I find that

the landlord has failed to comply with the *Act*, and the tenants are entitled to a monetary order for double the amount of the security deposit, or \$1,400.00.

Since the tenants have been successful with the application the tenants are also entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,500.00.

This order is final and binding and may be enforced.

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: February 11, 2019

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Residential Tenancy Branch