



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

This hearing dealt with a tenant's application for return of the security deposit. The tenant appeared at the hearing; however, there was no appearance on part of the landlords. Since the landlords did not appear, I explored service of hearing documents upon the landlords.

The tenant testified that she sent a hearing package, including the tenants' evidence, to each of the landlords via registered mail on November 23, 2018. The package sent to the landlord referred to by initials BT was successfully delivered. The package sent to the landlord referred to by initials YP was returned and marked as being "unclaimed". The tenant provided the delivery status notice, including tracking number, for the package delivered to BT and a photograph of the envelope that was sent to YP and returned as unclaimed. I confirmed that the address used to serve YP was the landlord's address of residence. Section 90 of the Act deems a person to have received documents five days after mailing even if they refuse to accept or pick up their mail. Accordingly, I was satisfied BT was duly served with notification of this proceeding and YP to be deemed served with the hearing documents five days after they were mailed to her. Therefore, I continued to hear from the tenant even though the landlords did not appear.

On another procedural note, the tenant requested that the claim be amended to reflect doubling of the security deposit. Since the doubling provision is a statutory obligation and not discretionary, I found the landlords not unduly prejudiced by amending the claim to reflect a claim for double the security deposit.

### Issue(s) to be Decided

Are the tenants entitled to doubling of the security deposit?

### Background and Evidence

Under an oral tenancy agreement the tenancy started on April 15, 2018. The tenants paid a security deposit of \$600.00. The monthly rent was \$1,250.00 payable on the first day of every month. The tenancy ended on October 31, 2018.

The landlords did not prepare a move-in or move-out inspection report.

The tenants provided the landlord BT with their forwarding address in writing on October 30, 2018. The tenants provided a photograph of the document given to the landlord on October 30, 2018.

The tenant testified that the landlords have not yet refunded their security deposit; the landlords have not filed a claim against their security deposit; and, the tenants did not authorize the landlords to retain the security deposit.

### Analysis

Section 38(1) of the Act provides that the landlord has 15 days from the date the tenancy ends or the tenant provides a forwarding address in writing, whichever date is later, to either refund the security deposit, get the tenant's written consent to retain it, or make an Application for Dispute Resolution to claim against it. Section 38(6) provides that if the landlord violates section 38(1) the landlord must pay the tenant double the security deposit. Section 38(6) is not discretionary and is intended to motivate landlords to take action with respect to disposing of the security deposit held in trust.

I accept the unopposed evidence before me that the tenants provided their forwarding address to the landlords in writing on October 30, 2018 and the tenancy ended on October 31, 2018. I further accept that the tenants did not authorize the landlords to retain the deposit in writing. Accordingly, I find the landlords had until November 15, 2018 to either refund the deposit to the tenants or file an Application for Dispute Resolution to make a claim against the deposit. The landlords did neither and must now pay the tenants double the security deposit pursuant to section 38(6).

In light of the above, I order the landlords to pay the tenants double the security deposit, or \$1,200.00. I further order the landlords to compensate the tenants \$100.00 for the filing fee they paid for this application. Therefore, I provide the tenants with a Monetary Order in the sum of \$1,300.00 to serve and enforce upon the landlords.

Conclusion

The tenants are provided a Monetary Order in the sum of \$1,300.00 to serve and enforce upon landlords.

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 21, 2019

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Residential Tenancy Branch