



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for her application, pursuant to section 72.

The two landlords, male landlord ("landlord") and "female landlord," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 16 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlords' written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that both landlords were duly served with the tenant's application and the tenant was duly served with the landlords' written evidence package.

### Issues to be Decided

Is the tenant entitled to a return of double the amount of the security deposit?

Is the tenant entitled to recover the filing fee for this application?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy ended on September 30, 2018. Monthly rent in the amount of \$750.00 was payable on the first day of each month. A security deposit of \$375.00 was paid by the tenant and the landlords continue to retain this deposit. Both parties signed a written tenancy agreement and a copy was provided for this hearing. No move-in or move-out condition inspection reports were completed for this tenancy. A written forwarding address was provided by the tenant to the landlords by way of text message on October 28, 2018. The tenant did not give written permission for the landlords to retain any amount from her security deposit. The landlords did not file an application for dispute resolution to keep any part of the deposit.

The landlord stated that this tenancy began on June 1, 2018, as per the parties' written tenancy agreement. The tenant testified that she moved in earlier than June 1, 2018, but she did not know the date. The tenant said that she provided a forwarding address to the landlords by email on October 11, 2018, but the landlord said that he did not receive it.

The tenant seeks a return of double the amount of her security deposit of \$375.00, totaling \$750.00. The tenant also seeks to recover the \$100.00 filing fee paid for this application.

### Analysis

Section 38 of the *Act* requires the landlords to either return the tenant's security deposit or file for dispute resolution for authorization to retain the deposit, within 15 days after the later of the end of a tenancy and the tenant's provision of a forwarding address in writing. If that does not occur, the landlords are required to pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the deposit. However, this provision does not apply if the landlords have obtained the tenant's written authorization to retain all or a portion of the deposit to offset damages or losses arising out of the tenancy (section 38(4)(a)) or an amount that the Director has previously ordered the tenant to pay to the landlords, which remains unpaid at the end of the tenancy (section 38(3)(b)).

I make the following findings, on a balance of probabilities. The tenancy ended on September 30, 2018. The tenant did not give the landlords written permission to keep any part of her security deposit. The landlords did not file an application to keep the deposit.

I find that the tenant provided her written forwarding address to the landlords by way of text message. Although text message is not a permitted service method under section 88 of the *Act*, I find that the landlords were sufficiently served with the address as per section 71(2)(c) of the *Act*, as the landlords acknowledged receipt using this method. Therefore, I find that the tenant is not entitled to the return of double the value of her security deposit because she did not use an approved service method.

Over the period of this tenancy, no interest is payable on the landlords' retention of the tenant's security deposit. In accordance with section 38(6)(b) of the *Act*, I find that the tenant is entitled to a return of the original amount of her security deposit of \$375.00.

As the tenant was partially successful in this application, I find that she is entitled to recover the \$100.00 filing fee from the landlords.

### Conclusion

I issue a monetary Order in the tenant's favour in the amount of \$475.00 against the landlord(s). The landlord(s) must be served with this Order as soon as possible. Should the landlord(s) 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: March 21, 2019

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Residential Tenancy Branch