



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The participatory hearing was held, by teleconference, on May 14, 2019. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit

Both Tenants attended the hearing. However, the Landlord did not. The Tenants stated that they served the Notice of Hearing and their application package to the Landlord by registered mail on February 1, 2019. Pursuant to section 90 of the Act, I find the Landlord received this package 5 days after it was mailed, on February 6, 2019.

The Tenants were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

1. Are the Tenants entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?

### Background and Evidence

The Tenants stated that they moved out of the rental unit on September 27, 2018, and the Landlord immediately re-rented their unit. They stated that the Landlord still holds their security and pet deposits totalling \$575.00.

The Tenants stated that they delivered their forwarding address, in writing, to the Landlord on September 18, 2018. The Tenants stated that the Landlord is ignoring their requests to get their deposit back. The Tenants feel they are being taken advantage of.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

I note the Tenants moved out on September 27, 2018, and I find the tenancy ended on that day. I further note the Tenants provided their forwarding address in writing on September 18, 2018. I find the Landlord received the forwarding address the same day the Tenants personally delivered it to him.

Since the Tenants provided their forwarding address in writing, prior to moving out, the Landlord had 15 days from the end of the tenancy (September 27, 2018), to either repay the security and pet deposit (in full) to the Tenants or make a claim against it by filing an application for dispute resolution. The Landlord did neither and I find the Landlord breached section 38(1) of the *Act*.

Accordingly, as per section 38(6)(b) of the *Act*, I find the Tenants are entitled to recover double the amount of the security deposit (\$575.00 x 2). Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants were successful in this hearing, I also order the Landlord to repay the \$100.00 fee the Tenants paid to make the application for dispute resolution.

In summary, I issued the Tenants a monetary order for \$1,250.00 based on the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*.

### Conclusion

I grant the Tenants a monetary order in the amount of **\$1,250.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be 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: May 14, 2019

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Residential Tenancy Branch