



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFT, MNSD

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on July 15, 2019 (the “Application”). The Tenants applied for return of the security deposit and reimbursement for the filing fee.

The Tenants filed an amendment to the Application in relation to their names.

The Tenants appeared at the hearing. The Landlord appeared at the hearing. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

The Tenants advised at the hearing that they are seeking double the security deposit if I find the Landlords failed to comply with the *Residential Tenancy Act* (the “Act”).

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered the documentary evidence pointed to during the hearing and all oral testimony of the parties. I have only referred to the evidence I find relevant in this decision.

### Issues to be Decided

1. Are the Tenants entitled to return of double the security deposit?
2. Are the Tenants entitled to reimbursement for the filing fee?

### Background and Evidence

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate. The tenancy started June 14, 2018 and was for a fixed term ending April 13, 2019. The Tenants paid a security deposit of \$1,500.00.

The Tenants testified that the tenancy ended May 29, 2019. The Landlord testified that the tenancy ended May 30, 2019.

Tenant C.J. testified that she provided the Landlord with her forwarding address in writing on May 29, 2019 with the keys to the rental unit. The Tenants submitted a photo of a note with their forwarding address, mail box information and a garage door code. The photo shows four keys on top of the note.

The Landlord denied receiving the Tenants' forwarding address. The Landlord acknowledged receiving the keys.

The parties agreed on the following. The Landlords did not have an outstanding monetary order against the Tenants at the end of the tenancy. The Tenants did not agree in writing at the end of the tenancy that the Landlords could keep some or all of the security deposit. The Landlords did not apply to the RTB to keep the deposit.

The Landlord testified that the parties did a walk-through at the start of the tenancy but no report. Tenant C.J. denied that the parties did a walk-through.

The Landlord testified that he did a move-out inspection on his own because the Tenants just left. He testified that he did not provide the Tenants with an opportunity to do the inspection on the RTB form.

### Analysis

Pursuant to rule 6.6 of the Rules of Procedure, the Tenants as applicants have the onus to prove the claim on a balance of probabilities meaning it is more likely than not that the facts occurred as claimed.

Section 38(1) of the *Act* sets out the obligations of landlords in relation to a security deposit held at the end of a tenancy. This section is only triggered once the landlords receive a tenant's forwarding address in writing.

Further, section 39 of the *Act* states that landlords can keep a security deposit if a tenant does not provide their forwarding address in writing within one year after the end of the tenancy.

The parties disagreed about whether the Tenants provided their forwarding address in writing to the Landlords. I am not satisfied based on the photo alone that Tenant C.J. did. The photo only shows the note and keys, it does not show her handing the note to the Landlord or the Landlord with the note. I heard the testimony of each party on this issue and did not find one party more reliable or credible than the other. In the circumstances, I am not satisfied the Tenants provided the Landlords with their forwarding address in writing. The Tenants have not met their onus to prove the claim.

An address provided on an Application for Dispute Resolution is not sufficient as a forwarding address provided in accordance with the *Act*.

The Application is premature and is dismissed with leave to re-apply. If the Tenants want the security deposit returned, they are to serve the Landlord with their forwarding address in writing in accordance with section 88 of the *Act*. The Landlords will then need to comply with section 38 of the *Act* in relation to the security deposit.

### Conclusion

The Application is dismissed with leave to re-apply. If the Tenants want the security deposit returned, they are to serve the Landlord with their forwarding address in writing in accordance with section 88 of the *Act*. The Landlords will then need to comply with section 38 of the *Act* in relation to the security deposit.

This decision does not extend any time limits set out in the *Act*.

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: October 28, 2019

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Residential Tenancy Branch