



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the return of the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions. The Landlord confirms its email address as set out in the Tenants’ application.

### Issue(s) to be Decided

Are the Tenants entitled to return of double the security deposit?

Are the Tenants entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed facts: The tenancy under written agreement started September 1, 2018 and ended August 31, 2019. At the outset of the tenancy the Landlord collected \$1,000.00 as a security deposit. After the end of the tenancy the Landlord returned \$750.00 to the Tenants. The Tenants did not agree in writing for the Landlord to retain any portion of the security deposit and the Landlord made no application for dispute resolution to claim against the security deposit.

The Landlord states that after the end of the tenancy a father of one of the Tenants communicated with the Landlord on the Tenants' behalf. The Landlord states that the father provided its address to the Landlord for the return of the security deposit and that this is the address to which the partial security deposit was returned.

The Parties agree that Landlord GG is not a landlord named on the tenancy agreement and the Tenants agree that Landlord GG should not be named in the application.

The Tenants do not waive any entitlement to return of double the security deposit.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit.

Policy Guideline #17 provides that unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit. Based on the Landlord's evidence that the father of one of the Tenants corresponded with the Landlord on the Tenants' behalf and as the Landlord sent the partial security deposit to the address provided by the father, I find on a balance of probabilities that the Landlord received the Tenants' forwarding address from the father. Based on the undisputed evidence that the Landlord did not return the security deposit of \$1,000.00 to the Tenants or make an application to claim against the security deposit and as the Tenants do not waive any entitlement to return of double the security deposit I find that the Landlord must now pay the Tenants double the security deposit plus zero interest of **\$2,000.00**. Deducting the **\$750.00** already paid to the Tenants leaves **\$1,250.00** to be returned to the Tenants.

As the Tenants have been successful with its claim, I find that the Tenants are entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,350.00**. Given the Tenants' agreement that Landlord GG should not have been named in the application as a Landlord, I decline to include Landlord GG in the monetary order.

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$1,350.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: January 28, 2020

---

Residential Tenancy Branch