



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDCT, FFT

### Introduction

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

1. An Order for the return of double the security deposit - Section 38;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlords did not attend the hearing. I accept the Tenant’s evidence that the Landlords were served with the application for dispute resolution, notice of hearing and evidence (the “Materials”) by registered mail on April 7, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlords are deemed to have received the Materials on April 12, 2020.

The Tenant was given full opportunity to be heard, to present evidence and to make submissions. The Tenant served additional evidence to the Landlord by registered mail on May 11, 2020. The Tenant withdraws its claim for compensation.

### Issue(s) to be Decided

Is the Tenant entitled to return of double the security deposit?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy under written agreement started on July 1, 2016. Rent of \$1,300.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$650.00 as a security deposit. The Parties mutually conducted a move-in inspection with an inspection report completed and copied to Tenant. The Tenant rented the unit as a residence for a disabled person whose name was subsequently added as a second named tenant to the original tenancy agreement sometime in February 2018. The Tenant did not live in the unit however the Tenant paid the monthly rent and had the utility accounts in its name. On December 31, 2019 the Tenant gave notice to end the tenancy for January 31, 2020. On February 10, 2020 the Parties mutually conducted a move-out inspection however the Landlord did not prepare an inspection report for signature and no report was copied to the Tenant. The Tenant provided its forwarding address in writing to the Landlord on March 3, 2020 by registered mail. The Landlord has not returned the security deposit and has not made an application claiming against 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. Based on undisputed evidence of the Tenant sending its forwarding address by registered mail I find that the Landlords are deemed to have received the forwarding address on March 8, 2020. Based on undisputed evidence that the Landlords neither returned the security deposit nor made an application to claim against the security deposit I find that the Landlords must now pay the Tenant double the security deposit plus zero interest of **\$1,300.00**. As the Tenant has been successful with its claim, I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,400.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,400.00**. 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: August 10, 2020

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Residential Tenancy Branch