



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

### Introduction

This hearing was reconvened from the direct request proceedings 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 double the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirms that the Tenants’ evidence was received and that the Landlord did not provide any evidence to the Tenants.

### 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 or undisputed facts: The tenancy under written agreement started on October 25, 2019 and ended on November 30, 2019. The Landlord did not set out its address for service on the tenancy agreement. Rent of \$2,000.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,000.00 as a security deposit. The Landlord has not returned the security deposit and has not made an application claiming against the security deposit.

The Tenant states that they provided their forwarding address to the Landlords in person when the Landlords were both present to collect the keys to the unit on November 30, 2020. The Landlord states that it does not know if it received the forwarding address. The Landlord states that it attempted to communicate with the Tenants by text on January 12, 15, and 18, 2021 in relation to the security deposit but received no reply. The Landlord states that the Tenants left damages to the unit and failed to pay a strata fine.

### 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. Given the Landlord's vague evidence that it does not know if the forwarding address was received, I prefer the Tenant's evidence and find on a balance of probabilities that the Landlords received the Tenants' forwarding address on November 30, 2020. The Landlord therefore had until December 15, 2020 to either return the security deposit or make an application to claim. Based on the undisputed evidence that the Landlord did not make any application to claim against the security deposit and did not return the security deposit I find that the Landlord must now pay the Tenants double the security deposit plus zero interest of **\$2,000.00**. As the Tenants' claim has been successful, I find that the Tenants are also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,100.00**.

The Landlord is at liberty to make its own application in relation to any claims it may have against the Tenants however the Landlords are ordered to pay the Tenants' entitlement forthwith and regardless of any future claims the Landlord may have.

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$2,100.00**. 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: April 27, 2021

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Residential Tenancy Branch