



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MetCap Living  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDCT, FFT

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

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on March 10, 2021 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 Landlord is deemed to have received the Hearing Package on March 15, 2021. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy under written agreement with a different landlord started on February 1, 2020. The current Landlord took over during the tenancy. Rent of \$725.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$362.50 as a security deposit and \$362.50 as a pet deposit (the "Deposits"). The tenancy ended on December 31, 2020. The Tenants provided their forwarding address to the Landlord on the move-out condition inspection report dated December 31, 2020. The Landlord has not returned the deposits and has not made an application claiming against the deposits.

### 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 the Tenant's undisputed evidence, I find that the Landlord received the Tenants' forwarding address, has not returned the Deposits and has not made an application claiming against the Deposits. The Tenants are therefore entitled to return of double the Deposits plus zero interest of **\$1,450.00**.

Section 6(1)(a) of the Regulations provides that if a landlord provides a tenant with a key or other access device, the landlord may charge a fee that is refundable upon return of the key. Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Based on the Tenant's undisputed evidence I find that the Landlord collected a refundable fee for the fob and failed to refund the fee upon its return. The Tenants are therefore entitled to **\$50.00**.

As the Tenants have been successful with their claims, I find that the Tenants are entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,600.00**.

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$1,600.00**. 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: July 15, 2021

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Residential Tenancy Branch