



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** MNSD

### **Introduction**

This application was brought by the tenant seeking return of her security deposit under section 38 of the *Act* after the landlord did not return it or make application to make claim on it within 15 days of the end of the tenancy.

### **Issue(s) to be Decided**

This application requires a decision on whether the tenant is entitled to return of the security deposit and if so, singly or in double.

### **Background and Evidence**

This tenancy began June 1, 2006 and ended June 30, 2008. Rent was \$600 per month and the landlord holds a security deposit of \$300 paid on or about June 1, 2006.

During the hearing, the tenant presented a copy of a letter to the landlord dated July 31, 2008 providing her forwarding address and requesting return of the security deposit. The landlord did not contest receiving the forwarding address but stated that she had retained the security deposit in set off against damages to the rental unit. As she was advised, section 38(1) of the *Act* compels a landlord to either return the security deposit or make application for dispute resolution to make claim upon it within 15-days unless the tenant has consented otherwise.

Section 38(6) of the *Act* says that if the landlord does not comply with section 38(1), the landlord may not claim upon the security deposit and must return it in double.

However, section 38(2) states that section 38(1) of the *Act* does not apply if the tenant has not participated in the move-in or move out inspections required by section 24 and 36 of the *Act*. Similarly, the landlord's right to claim upon the security deposit is extinguished by a failure to offer or conduct the inspections and provide copies signed by both parties.

Neither party provided any evidence that joint move-in or move-out inspections were conducted.

### **Analysis**

In the absence of signed joint inspection forms, I cannot find that the tenant is entitled to the security deposit doubled under section 38(6). For the same reason, I cannot find that the landlord can claim on it

### **Conclusion**

Therefore, I find that the tenant is entitled to return of the bare security deposit plus interest as follows:

Security deposit	\$300.00
Interest (June 1, 2006 to June 30, 2008)	7.67
<b>TOTAL</b>	<b>\$307.67</b>

Thus, the tenant's copy of this decision is accompanied by a Monetary Order for \$307.67, enforceable through the Provincial Court of British Columbia for service on the landlord.

The landlord remains at liberty to make application for a Monetary Order for damages to the rental unit.

September 17, 2008

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