



# Dispute Resolution Services

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

## DECISION

**Dispute Codes:** MNSD, MNDC and FF

### **Introduction**

This application was brought by the tenant seeking return of her last month's rent due under section 51 of the *Act* as the tenancy ended on notice for landlord use, and return of her security deposit in double on the claim that the landlord failed to return it within 15 days of the end of the tenancy and receipt of her forwarding address. The tenant also seeks damages for the landlord's failure to repair the door to the rental unit and to recover the filing fee for this proceeding from the landlord.

Despite being served with the Notice of Hearing sent by registered mail on January 22, 2009 and received on January 26, 2009, the landlord did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Prior to the hearing, the tenant advised by letter of March 13, 2009 that the landlord had sent a cheque by registered mail post-marked February 17, 2009 for \$1,050 for the last month's rent of \$700 and the bare security deposit of \$350.

Therefore, the tenant amended her application to request only the doubled portion of the security deposit and the interest due and damages for the door.

**Issue(s) to be Decided**

This matter requires a decision on whether the tenant has proven that she provided the landlord with a forwarding address at the end of the tenancy, whether the security deposit was returned after the 15-day time limit, and whether she entitled to have the security deposit doubled and compensation for the door.

**Background and Evidence**

This tenancy began July 1, 2007 and ended on December 31, 2008. Rent was \$700 per month and the landlord held a security deposit of \$350 paid on or before July 1, 2007. The tenancy ended on a Notice to End for landlord use.

During the hearing, the tenant referred to a letter she had provided the landlord dated December 30, 2008 attempting to reschedule the first condition inspection time set by the landlord and providing her forwarding address and request for return of the security deposit and the last month's rent.

The tenant also referred to a letter from the landlord accompanying the cheque which acknowledged receipt of her forwarding address (presumably with the Notice of Hearing) on January 26, 2009.

While the tenant is certain the forwarding address was provided on December 30, 2008, she notes that, even if January 26, 2009 was accepted as the date, the cheque dated February 13, 2009 and post-marked February 17, 2009 is still outside the 15-day time limit set by section 38(1) of the *Act*.

The tenant submitted photos of the door and claimed \$250 in compensation as it had not been repaired as referred in a decision of October 14, 2008.

## **Analysis**

Section 38(1) one of the *Act* states that, unless the tenant consents otherwise, within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address, the landlord must return the security deposits plus interest or make application for dispute resolution to claim it .

If the landlord does neither, section 38(6) states that the landlord “must” return double the amount of the deposit. It should be noted that the use of the word “must” denotes that a dispute resolution officer has no discretion to adjust the quantum or the time limit referred to.

Accordingly, I find that the landlord must pay the tenant the amount necessary to double the security deposit plus the interest on the bare security deposit.

As to the claim for damages regarding the door, on reviewing the cited decision, I find that the dispute resolution officer commented, but did not issue an order as claimed by the tenant, and on reviewing her photographs, I am not persuaded the state of the door warranted compensation. Therefore, this part of the claim is dismissed.

As the application has succeeded in large, I find that the tenant is entitled to recover the filing fee for this proceeding.

Therefore, I find that the tenant is entitled to a Monetary Order calculated as follows:

To double the security deposit	\$350.00
Interest on security deposit from July 1, 2007 to date	7.94
Filing fee	50.00
<b>TOTAL</b>	<b>\$407.94</b>

## Conclusion

Thus, the tenant's copy of this decision is accompanied by a Monetary Order for \$407.94, enforceable through the Provincial Court of British Columbia, for service on the landlord.

March 25, 2009

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Dispute Resolution Officer