



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      DRI, MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the Tenant to dispute a rent increase. The Tenant also applied for a monetary order for compensation for damage or loss under the Act or tenancy agreement as well as for the return of a security deposit and to recover the filing fee for this proceeding.

### Issues(s) to be Decided

1. Is the Tenant entitled to recover overpayments of rent and if so, how much?
2. Is the Tenant entitled to the return of his security deposit?

### Background and Evidence

This tenancy started on October 1, 2007 and ended on January 31, 2009. At the beginning of the tenancy rent was \$800.00 per month and increased to \$830.00 per month as of October 1, 2008. The Tenant paid a security deposit of \$400.00 at the beginning of the tenancy.

The Tenant gave his forwarding address in writing to the Landlord on January 31, 2009. On February 6, 2009, the Landlord sent the Tenant \$300.00 of his security deposit and stated in an accompanying letter that she withheld \$90.00 for cleaning and \$10.00 for painting a cupboard door. The Tenant said he did not give the Landlord written authorization to keep his security deposit.

### Analysis

Section 38(1) of the Act says that a Landlord has 15 days from the later of the end of the tenancy or the date she receives the Tenants' forwarding address in writing to either return the security deposit to the Tenant or to make a claim against it by filing an application for dispute resolution. If a Landlord does not do either of those things and does not have the Tenant's written authorization to keep the security deposit, then pursuant to s. 38(6) of the Act, the Landlord must pay the Tenant double the amount of the security deposit that is not returned.



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I find that the Tenant gave his forwarding address in writing to the Landlord on January 31, 2009. As a result the Landlord had until February 15, 2009 to either return all of the security deposit or to apply for dispute resolution to make a claim against it. I find that the Landlord kept \$100.00 of the security deposit without the Tenant's written authorization and did not file an application for dispute resolution to make a claim against it. Consequently, I find pursuant to s. 38(6) of the Act that the Landlord must pay the Tenant \$200.00 (double the unreturned portion of the deposit) plus \$7.53 representing accrued interest (on the original amount of the deposit).

I also find that the amount of the rent increase on October 1, 2008 exceeded the allowed increase under the Regulations to the Act of 3.7% (or \$29.60) and pursuant to s. 43(5) of the Act, the Tenant is entitled to recover overpayments for 4 months in the amount of \$1.60. As the Tenant has been successful in this matter, he is also entitled to recover his \$50.00 filing fee for this proceeding.

## Conclusion

A monetary order in the amount of **\$259.13** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the order may be filed in the Provincial (Small Claims) Court of British Columbia 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 *Residential Tenancy Act*.

Dated: April 21, 2009.

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Dispute Resolution Officer