



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MNSD

### Introduction

This matter dealt with an application by the Tenant for the return of a security deposit as well as compensation for the Landlord's alleged failure to return it within the time limits provided under the Act.

### Issues(s) to be Decided

1. Is the Tenant entitled to the return of a security deposit and if so, how much?

### Background and Evidence

This tenancy started on June 1, 2007 and ended on May 30, 2009 when the Tenant moved out. Rent was \$750.00 per month. The Tenant paid a security deposit of \$375.00 on May 16, 2007. The Tenant gave her forwarding address in writing to the Landlord on May 13, 2009. The Tenant said on June 22, 2009 she received a cheque for \$351.66 with a letter advising her that the Landlord had deducted \$23.34 for unpaid utilities. The Tenant also said that she did not give the Landlord written authorization to keep any of the security deposit.

The Landlord claimed that he sent the Tenant's security deposit by mail on June 13, 2009 to the Tenant's forwarding address but it was returned on June 22, 2009 because the address was allegedly incomplete. The Landlord said he immediately contacted the Tenant about the returned mail, verified her address and dropped it off to her later that day.

### Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit

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then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit to the Tenant.

I find that the Landlord received the Tenant's forwarding address in writing on May 13, 2009 and that the tenancy ended on May 30, 2009. Consequently, the Landlord had until June 14, 2009 to return the security deposit. The Tenant argued that she did not believe the Landlord mailed the security deposit on June 13, 2009 because a post mark appearing on the bottom reverse of the envelope says June 2. The Tenant also claimed that she spoke to the building manager on June 15, 2009 and was advised that the security deposit had been mailed the previous week. The Tenant further claimed that she believed the returned mail sticker had been removed from other mail and placed on the Landlord's envelope. Finally, the Tenant claimed that the Landlord had not paid the utility bill by June 24, 2009 (for which a deduction had been made) when she paid it. As a result, the Tenant argued that the security deposit had not been mailed when the Landlord claimed.

I do not find the Tenant's arguments regarding the date the security deposit was mailed by the Landlord to be persuasive. Firstly, the post mark referred to by the Tenant actually says June 20 and is placed in the same proximity as the returned mail sticker. Consequently, I conclude that the date stamp refers instead to the date the mail was returned to the Landlord. Second, the Tenant has provided no evidence to support her allegations that it took an unreasonably long time for the mail to be returned to the Landlord or that the mail sticker was removed from other mail. Third, I find it reasonable that the Landlord would not pay the utilities until he received a bill from the City which the Tenant claimed she asked to be sent to her instead. I further note that payment of that bill was not due until June 29, 2009. Finally, the cheque for the security deposit was signed by the Landlord and therefore I conclude that whatever information the building manager gave to the Tenant about the security deposit was based on speculation rather than first hand knowledge. Furthermore, this information is unreliable because it is based on hearsay.

Consequently, I find on a balance of probabilities that the Landlord mailed the Tenant's security deposit on June 13, 2009 to the Tenant's forwarding address but that it was returned by Canada Post on June 20, 2009, received by the Landlord on June 22, 2009 and delivered to the Tenant the same day. In the circumstances, I find that the Landlord complied with the timelines under the Act insofar as the payment of \$351.66 is concerned. I find that the Tenant did not give the Landlord written authorization to keep a portion of the security deposit for utilities and as a result, I find that the Landlord is responsible for returning double the unpaid balance of the security deposit (\$46.48) plus accrued interest of \$9.22.



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## Conclusion

A monetary order in the amount of **\$55.70** 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: October 02, 2009.

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Dispute Resolution Officer