



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

MNSD, MNDC, FF

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for a monetary Order for return of the security deposit, compensation for loss and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me. I have considered all of the evidence and testimony provided.

### Issue(s) to be Decided

Are the tenants entitled to return of double the deposit paid?

Are the tenants entitled to compensation for a stolen bike and bank fees?

Are the tenants entitled to filing fee costs?

### Background and Evidence

This tenancy commenced in June 2008 and terminated on June 30, 2009. The Tenants paid a security deposit of \$450.00 on June 1, 2008.

During the hearing the parties agreed that on June 23, 2009 the Tenants provided the Landlord with a written forwarding address. The parties also agreed that the Tenants had agreed to a deduction from their deposit in the sum of \$100.13 for carpet cleaning and another charge owed. The Landlord did return the balance of the deposit but then

placed a stop payment on the cheque as he discovered that a late rent payment had resulted in bank charges and that the tenants did not pay for screens they had ordered for the house.

The Tenants have claimed compensation in the sum of \$300.00 for a bike that was stolen after a friend of the Landlord's removed the bike from locked storage and left it outside.

The Tenant's are also claiming banking charges as the stop payment cheque resulted in an estimated \$30.00 fee due to an overdraft on their account.

### Analysis

Section 38 of the Act determines that the Landlord must, within 15 days after the later of the date the tenancy ends and the date the Landlord received the Tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the Landlord has failed to comply with section 24(2) (landlord failure to meet start of tenancy condition report requirements) or 36 (2) (landlord failure to meet end of tenancy condition report requirements) the Landlord **must** pay double the deposit. (my emphasis added.)

I have no evidence before me that a move-in condition inspect or move-out condition inspection was completed as required by the Act. Further, the Landlord did return the agreed upon deposit owed to the tenants and then placed a stop payment on the cheque, resulting in an overdraft in the tenant's bank account.

Therefore, I find that the Tenants are entitled to return of double the \$450.00 deposit paid to the Landlord, plus interest in the sum of \$3.95. During the hearing the Tenants agreed that they owe the Landlord \$100.13; leaving a balance owed to the Tenants in the sum of \$803.82.

I find that the loss of this bike is a matter that cannot be determined under the Residential Tenancy Act and dismiss without leave to reapply the Tenant's request for compensation.

There is no evidence before me of a bank fee charged to the Tenants and I dismiss without leave to reapply the claim for fees.

I find that the Tenant's application has merit, and I find that the Tenants are entitled to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Tenants have established a monetary claim, in the amount of \$903.95, which is comprised of double the deposit paid in the sum of \$900.00, interest of \$3.95 and \$50.00 in compensation for the filing fee paid by the Tenants for this Application for Dispute Resolution. This amount has been adjusted to set-off the amount of \$100.13 which the Tenants acknowledge that they owe the Landlord; resulting in a balance owed to the Tenants in the sum of **\$803.82** and I grant the Tenants a monetary Order in that amount. In the event that the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The Tenants claim for loss of a bike and estimated bank fees are dismissed without leave to reapply.

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: November 20, 2009.

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Dispute Resolution Officer