



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

MNSD, MNDC, and FF

### Introduction

This hearing was in response to an Application for Dispute Resolution, in which the Tenants applied for a monetary Order for money owed or compensation for damage or loss; for the return of double their security deposit and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant with the initials "D.O." stated that iled copies of the Application for Dispute Resolution and Notice of Hearing to the Landlord, via registered mail, at the service address noted on the Application, on July 15, 2009. He did not submit a copy of the Canada Post receipt nor was he able to provide a tracking number for the package that was sent. In the absence of evidence to the contrary, I accept that the Tenant mailed these documents to the Landlord on July 15, 2009 and that the documents were served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

### Issue(s) to be Decided

The issue to be decided is whether the Tenants are entitled to the return of double the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution.

### Background and Evidence

The Tenant with the initials "D.O." stated that this tenancy began on October 21, 2008; that it ended on April 30, 2009; that they were paying monthly rent of \$1,800.00; and that they paid a security deposit of \$900.00 "a few days before they moved into the rental unit".

The Tenant with the initials "D.O." stated that a letter, a copy of which was submitted in evidence and in which they provided their forwarding address, was mailed to the Landlord at his service address on June 12, 2009. The Tenants submitted a copy of a



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Canada Post receipt to corroborate this statement. The Canada Post website shows that the package that correlates to the tracking number on the receipt was delivered to the Landlord on June 15, 2009, as indicated by his electronic signature.

The Tenant with the initials "D.O." stated that the Tenants did not authorize the Landlord to retain any portion of their security deposit and that no portion of their deposit was returned to them.

## Analysis

On the basis of the evidence provided by the Tenants, and in the absence of evidence to the contrary, I find that the Tenant paid a security deposit of \$900.00; that the Landlord did not return any portion of the security deposit; that the Tenants did not authorize the Landlord to retain any portion of the security deposit; that the Landlord did not file an Application for Dispute Resolution claiming against the deposit; and that the Landlord did not have authorization to retain any portion of it.

On the basis of the evidence provided by the Tenants, and in the absence of evidence to the contrary, I find that this tenancy ended on April 30, 2009 and that the Tenants mailed their forwarding address to the Landlord on June 12, 2009.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Landlord failed to comply with section 38(1), as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenants double the security deposit that was paid, plus any interest due on the original amount.

## Conclusion

I find that the Tenant has established a monetary claim of \$1,852.66, which is comprised of double the security deposit, \$2.66 in interest calculated from October 21, 2008, and \$50.00 as compensation for the cost of filing this Application for Dispute



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Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court 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: November 10, 2009.

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Dispute Resolution Officer