



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

**Dispute Codes:** MNSD, FF

### **Introduction**

This is the Tenants' application for a Monetary Order for double the security deposit paid to the Landlord; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed evidence and this matter proceeded on its merits.

### **Issue(s) to be Decided**

- (1) Are the Tenants entitled to a Monetary Order for double the security deposit, pursuant to the provisions of Section 38(6) of the Act?
- (2) Are the Tenants entitled to recover the filing fee from the Landlord?

### **Background and Evidence**

The Tenants paid the Landlord a security deposit in the amount of \$337.50 on July 7, 2006. The Tenants moved out of the rental unit on October 15, 2008.

The Tenant gave the following testimony:

The Tenant testified that he mailed the Landlord written notification of the Tenants' forwarding address on November 3, 2008.

The Tenant testified that he mailed the Landlord the Notice of Hearing documents, via registered mail, on August 4, 2009.

The Tenant stated that the Landlord has not returned the Tenants' security deposit, and therefore he is applying for double the security deposit, in accordance with the provisions of the Act.

The Landlord gave the following testimony:

The Landlord testified that the Tenants left furniture at the rental unit when they moved out, and did not pay full rent for the month of October, 2008.

The Landlord testified that she did not receive the Tenants' letter notifying her of their forwarding address. The Landlord testified that she was unaware of the Tenants' forwarding address until she received the Notice of Hearing documents in August, 2009.

**Analysis**

A security deposit is held in trust by the landlord for the tenant, to be administered in accordance with Section 38 of the Act.

Section 38(1) of the Act provides that within 15 days after the later of the date the tenancy ended and the date the Landlord received the Tenants' forwarding address in writing, the Landlord **must** repay any security deposit or pet damage deposit to the Tenant with interest, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) of the Act provides that if the Landlord does not comply with Section 38(1) of the Act, the Landlord **must** pay the Tenants double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that the Landlord received the Tenants' written notification of their forwarding address in August, 2009, when she received their Application for Dispute Resolution. The Landlord did not file an application against the security deposit within 15 days of

receiving the Tenants' forwarding address and therefore must pay the Tenants double the security deposit.

The Landlord provided testimony suggesting that she had a claim for damages against the Tenants. The Landlord has not filed an application for damages, but is at liberty to do so.

The Tenants have been successful in their application and are entitled to recover the filing fee from the Landlord.

I grant the Tenants a monetary order in the amount of \$736.05, calculated as follows:

Double the security deposit	\$675.00
Accrued interest on the \$337.50 security deposit	\$11.05
Recovery of the filing fee	<u>\$50.00</u>
Balance owing by the Landlord to the Tenants	\$736.05

### **Conclusion**

I grant the Tenants a Monetary Order against the Landlord in the amount of \$736.05. This Order must be served on the Landlord and may be filed in the Provincial Court of British Columbia (Small Claims) 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.

December 7, 2009

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Date of Decision

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