



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

MNSD, 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 double the security deposit 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 and to make submissions during the hearing.

### Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid?

Is the tenant entitled to filing fee costs?

### Background and Evidence

This tenancy terminated on September 30, 2009 as the result of proper one month's written Notice given by the tenant. On October 5, 20080 the tenant paid a deposit in the sum of \$400.00.

The landlord confirmed receipt of a September 29, 2009 email from the tenant, providing her forwarding address. The tenant moved out of the rental unit on September 30, 2009. In mid-November the tenant received a cheque from the landlord, in the sum of \$374.83, which the tenant cashed.

The landlord acknowledged they did not return the deposit within fifteen days of having received the forwarding address from the tenant, nor did the landlord apply for dispute

resolution, claiming against the deposit. The tenant did not provide the landlord with written permission to make deductions from the deposit paid.

### Analysis

Section 38(1) 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 does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord **must** pay the tenant double the amount of security deposit.

The landlord did return part of the deposit, but I find they failed to comply with section 38 of the Act, as the complete deposit was not returned and the landlord failed to make an application, claiming against the deposit.

Therefore, pursuant to section 38(6) of the Act, I find that the tenant is entitled to return of double the deposit paid, in the sum of \$800.00. As the tenant has received \$374.83, I find she is entitled to return of a further \$425.17 plus \$14.17 interest.

I find that the tenant's application has merit, and that the tenant is entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the tenant has established a monetary claim, in the amount of \$489.34, which is comprised of the balance of double the deposit paid in the sum of \$425.17, plus interest of \$14.17 and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order for **\$489.43**. 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.

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: March 08, 2010.

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Dispute Resolution Officer