



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MNSD & FF

### Introduction

This hearing dealt with an application by the tenant seeking the return of double her security deposit. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

I note that neither the tenant nor the landlord provided any documentary evidence for this hearing in accordance with the rules of procedure.

### Issues(s) to be Decided

Has the tenant established a monetary claim due to the landlord's failure to return the security deposit pursuant to section 38 of the *Act*?

### Background and Evidence

The parties confirmed in the hearing that this tenancy began on January 1, 2010 and ended on April 16, 2010. The monthly rent was \$800.00 and the tenant paid a security deposit of \$400.00. The parties did not conduct move in or move out condition inspections in writing as required by the *Act*.

The tenant submits that the landlord asked that she vacate the rental unit on April 12, 2010 as soon as possible. The tenant submits that they had a verbal agreement that if she vacated as soon as possible, then the landlord would return the tenant the full amount of rent paid for April 2010. The tenant confirmed that she vacated by April 16, 2010; however, the landlord has only issued her \$400.00. The tenant stated that she provided the landlord with a forwarding address in writing but could not confirm when this was done.

The tenant is also seeking the sum of \$250.00 for a bed she claims was left behind on the balcony of the rental unit. The tenant submits that the landlord would not make arrangements for the tenant to get her possession.

The landlord submits that the tenant was continually complaining about the high cost of the monthly rent. The landlord stated that on April 1, 2010 she told the tenant that she would return the full month's rent to the tenant if she vacated on the same day. The landlord stated that the tenant received her security deposit back already. The landlord stated that the tenant came to pick up the \$400.00 security deposit and then wanted more money. The landlord did not deny or confirm the tenant's claim that the landlord moved into the rental unit.

The landlord's representative stated there were discussions of the tenant vacating in March but they never received any notice from the tenant. The landlord stated that they provided the tenant with \$400.00 by depositing into an account provided by the tenant. The landlord's agent stated that the account number provided by the tenant stopped working at one point. The landlord denied any knowledge of a missing bed and indicated that the tenant was welcome to come to the rental unit at anytime to gather any possessions which might be contained in the storage unit.

In response the tenant denied complaining about the cost of rent. The tenant stated again she was asked to vacate by the landlord on April 12, 2010 and she vacated by April 16, 2010.

The tenant submits she is entitled to the return of double her security deposit, compensation for her lost bed in the amount of \$250.00 and the \$400.00 representing the second half of the refunded month's rent. The tenant also seeks reimbursement of the \$50.00 filing fee paid for this application for a total monetary claim of \$1,500.00.

### Analysis

Based on the testimony provided, and on a balance of probabilities, I find as follows:

Section 44 of the *Act* requires that a tenancy end in writing and does not contemplate oral agreements to end a tenancy. Therefore, either the tenant or the landlord was required to provide written notice to end this tenancy. In the absence of any written notice to end the tenancy, the tenant was not compelled to vacate the rental unit. I find that the tenant was adequately compensated for vacating the rental unit early when she was returned half a month's rent.

I reject the tenant's claim that she is entitled to addition compensation of \$400.00 for vacating the rental unit on April 16, 2010. The parties cannot agree on the terms of the oral agreement and I find that any oral agreement between the parties was an attempt to contract outside of the *Act* and is therefore not enforceable.

I find that the tenant is entitled to the return of her security deposit for the sum of \$400.00, but I do not find that the tenant is entitled to the return of double her security deposit. Section 38(1) of the *Act* requires that the tenant must provide the landlord with a forwarding address in writing. The tenant was unable to provide any evidence that the landlord received a forwarding address in writing until the landlord received a copy of the tenant's application for Dispute Resolution.

I also reject the tenant's claim for the sum of \$250.00 related to a missing bed. The tenant did not file this as part of her original claim and only raised it in the hearing. I also deny the tenant's request to recover the \$50.00 filing fee from the landlord, as I find that the tenant's application was largely unsupported and she failed to comply with the *Act* in providing evidence that the landlord was given a forwarding address in writing.

### Conclusion

I find that the tenant is entitled to the return of her security deposit for the sum of \$400.00. I grant the tenant a monetary Order for this sum. This Order 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: October 25, 2010.

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Dispute Resolution Officer