



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** MNDC, MNSD, FF

### **Introduction**

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

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

- (1) Are the Tenants entitled to a Monetary Order against the Landlord in the amount of double the security deposit, pursuant to the provisions of Section 38(6) of the Residential Tenancy Act (the "Act")?

### **Background and Evidence**

This tenancy ended on April 15, 2010. The Tenants paid a security deposit to the Landlord in the amount of \$1,200.00 on October 16, 2008.

The Tenants gave the following affirmed testimony:

The Tenants served the Landlord with the Notice of Hearing documents, by registered mail, sent May 17, 2010. The Tenants provided a copy of the registered mail receipt and tracking number in evidence.

The Tenants mailed the Landlord written notification of their forwarding address, via registered mail, on April 19, 2010. The Tenants provided the registered mail receipt and tracking number in evidence.

On September 21, 2010, the Tenants provided the Landlord with copies of their documentary evidence. The Tenants provided the tracking number for the registered mail documents.

The Tenants did not agree that the Landlord could retain any of the security deposit. There is no prior Order from a Dispute Resolution Officer with respect to any of the security deposit.

The Landlord gave the following affirmed testimony:

The Tenants damaged doors, walls, laminate flooring, a window frame, a kitchen cabinet and the kitchen counter tops. The Landlord has an estimate in the amount of \$2,331.00 for repairing the rental unit.

The Landlord has not re-rented the rental unit.

### **Analysis**

This Hearing was convened to consider the Tenants' Application. The Landlord has not filed an Application for Dispute Resolution for damages to the rental unit and is at liberty to do so.

A security deposit must be applied in accordance with the provisions of Section 38 of the Act.

Section 38(1) of the Act provides 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** repay any security deposit or pet damage deposit to the tenant with interest, or file an Application for Dispute Resolution claiming against the security deposit or pet damage deposit.

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

I accept the Tenants' undisputed testimony that they provided the Landlord with written notification of their forwarding address on April 19, 2010, by registered mail, and that they did not agree that the Landlord could retain any of the security deposit.

The Landlord has not returned the security deposit to the Tenants and has not filed against the security deposit. Therefore, I find that the Tenants are entitled to a Monetary Order against the Landlord for double the amount of the security deposit, plus accrued interest.

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

I hereby provide the Tenants with a Monetary Order in the amount of \$2,453.79 , calculated as follows:

Double the security deposit	\$2,400.00
Accrued interest on the security deposit	\$3.79
Recovery of the filing fee	<u>\$50.00</u>
Balance owing by the Landlord to the Tenants	\$2,453.79

### **Conclusion**

I hereby provide the Tenants with a monetary order for \$2,453.79 against the Landlord. 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*.

Dated: October 04, 2010.

---