



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This matter dealt with an application by the Tenant for the return of the Tenants security deposit and the recovery of the filing fee for this proceeding from the Landlord.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by personal delivery on August 13, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Is the Tenant entitled to the return of their security deposit?

### Background and Evidence

This tenancy started on January 1, 2008 as a 1 year fixed term tenancy and renewed as a month to month tenancy. Rent was \$1,095.00 per month payable in advance of the 1<sup>st</sup> day of each month. The tenancy ended March 31, 2010. The Tenant paid a security deposit of \$550.00 on December 5, 2007.

The Tenants said they have not received the return of their security deposit of \$550.00 plus accrued interest from December 5, 2007. The Tenants continued to say that the Landlord made an Application to retain the security deposit with the Residential Tenancy Branch, file # 243170 and in the decision dated August 9, 2010 the Application by the Landlord was dismissed without leave to reapply and the security deposit was ordered to be returned. The Tenants said they still have not received their security deposit and they are now requesting a monetary order for it.

The Landlord said that he did not attend the hearing as he had forgotten the hearing date due to a family funeral. He said that he emailed the Residential Tenancy Branch after the meeting, but he did not hear back as to what to do. The Landlord said he believes the Tenant owes him \$900.00 in unpaid utility bills. The Landlord continued to say he has not paid the Tenants their deposit and accrued interest.

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The Landlord said the Tenants paid \$100.00 per month in utilities, but the actual amount of utilities was more than the \$100.00 and he is claiming the difference between the actual amount and the \$100.00 per month. The Tenants said the tenancy agreement has nothing in it about the utilities amount and they were told by the Landlord that \$100.00 per month would cover their share of the utilities. The Tenants said they paid \$100.00 per month throughout the tenancy. The Tenant did say they received an email from the Landlord in November 2010, saying the amount paid for utilities should go up, but they said nothing came of it.

## Analysis

Section 62 (3) says the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

The decision of August 9, 2010 dismisses the Landlord's application to retain the Tenants security deposit and orders the return of the security deposit from the Landlord to the Tenants. I find the Landlord has not complied with the decision of August 9, 2010 and is required to comply under the Act, therefore I have issued a Monetary Order to the Tenants for the security deposit of \$550.00, the accrued interest of \$8.87 from December 5, 2007 and since the Tenants have been successful in this matter, I find that the Tenants are entitled to recover their \$50.00 filing fee for this proceeding from the Landlord. The Monetary Order is for the following amounts:

Security deposit	\$550.00
Accrued Interest	\$ 8.87
Filing Fee	<u>\$ 50.00</u>
Balance owing	\$608.87



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## Conclusion

A Monetary Order in the amount of \$608.87 has been issued to the Tenants. A copy of the Orders must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Dispute Resolution Officer