



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

MNSD, MNDC, and FF

### Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of his security deposit, a monetary Order for money owed or compensation for damage or loss; and to recover the filing fee from the Landlord for the cost of filing this application.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Respondent via registered mail at the service address noted on the Application, on June 17, 2010. The Tenant stated that when this tenancy began he was dealing with an individual with the initials "E.W."; that in February of 2010 he met with the individual with the initials "E.W." and the individual named as a Respondent in this Application for Dispute Resolution; at which time he was advised that the Respondent was his new landlord; and that the individual with the initials "E.W." provided him with the service address noted on the Application for Dispute Resolution and advised him that this was the service address for the Respondent.

The Tenant submitted Canada Post documentation that corroborates his statement that he sent copies of the Application for Dispute Resolution and Notice of Hearing to the service address on June 17, 2010. The Tenant stated that he checked with Canada Post and confirmed that the package was delivered on June 18, 2010. In the absence of evidence to the contrary, I find that these documents were served on the Respondent in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Respondent/Landlord did not appear at the hearing.

### Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of double the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution.

### Background and Evidence

The Tenant stated that this tenancy began on July 01, 2001; that when the tenancy began he understood the Landlord was the numbered company that is named as a

Respondent in this Application for Dispute Resolution; that the individual with the initials "E.W." was a principal of that numbered company ; that in February of 2010 he met with the individual with the initials "E.W." and the individual named as a Respondent in this Application for Dispute Resolution; at which time he was advised that the Respondent was his new landlord; and that he believes the individual named as a Respondent is also a principal of that numbered company.

The Tenant stated that he paid a security deposit of \$375.00 sometime during June of 2001, although he does not know the exact date of payment. He stated that he has been required to pay monthly rent of \$750.00 for the duration of the tenancy.

The Tenant stated that when he met with the Respondent in February of 2010 he was advised that he was required to vacate the rental unit as it was being renovated. The Tenant stated that he vacated the rental unit on March 31, 2010.

The Tenant stated that he personally delivered a letter, in which he provided a forwarding address, to the individual with the initials "E.W." on April 20, 2010. The Tenant stated that on April 20, 2010 he personally delivered a letter, in which he provided a forwarding address, to the rental unit as he was aware the Respondent was renovating the rental unit.

The Tenant stated that on, or about, April 24, 2010 he had a conversation with a male with the initials "B.W.", at which time the male advised him that he had received the letter with his forwarding address. The Tenant stated that the Respondent had previously acted as an interpreter for the Respondent and that the Respondent told the Tenant to deal with this male in regards to the return of the security deposit.

The Tenant stated that he did not authorize the Landlord to retain the security deposit; that the Respondent did not return any portion of the security deposit; and that the Respondent did not file an Application for Dispute Resolution claiming against the security deposit.

### Analysis

On the basis of the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the numbered company named as a Respondent in this Application for Dispute Resolution and an individual with the initials "E.W.", and that this tenancy began on July 01, 2001.

On the basis of the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that in February of 2010 the individual with the initials "E.W." and the individual who is named as a Respondent in this Application for Dispute Resolution met with the Tenant and advised him that the individual who is named as a Respondent in this Application for Dispute Resolution is his new landlord. On this basis, I accept that the Respondent was acting as a landlord in this tenancy.

On the basis of the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that the Tenant has been required to pay monthly rent of \$750.00 for the duration of the tenancy and that he paid a security deposit of \$375.00 sometime in June of 2001. As the Tenant does not know when the exact date of when the security deposit was paid, I will calculate the interest on the deposit from June 30, 2001.

On the basis of the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that this tenancy ended on March 31, 2010 and that he provided the Respondent with his forwarding address, in writing, on April 02, 2010 when he delivered a letter, in which he provided a forwarding address, to the rental unit. In reaching this conclusion I placed significant weight on the Tenant's testimony that an agent for the Respondent advised him that he had received the Tenant's forwarding address.

On the basis of the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that the Respondent did not return any portion of the security deposit; that the Tenant did not authorize the Respondent to retain any portion of the security deposit; that the Respondent did not file an Application for Dispute Resolution claiming against the deposit; and that the Respondent did not have authorization to retain any portion of it.

Section 38(1) of the *Act* stipulates 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 either repay the security deposit and/or pet damage deposit plus interest or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Respondent failed to comply with section 38(1), as the Respondent has not repaid the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1), the Landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Respondent did not comply with section 38(1) of the *Act*, I find that the Respondent must pay the Tenant double the security deposit that was paid, plus any interest due on the original amount.

### Conclusion

I find that the Tenant has established a monetary claim of \$819.19, which is comprised of double the security deposit, \$19.19 in interest on the original amount of the security deposit, and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Respondent does not voluntarily comply with this Order, it 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: November 01, 2010.

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Dispute Resolution Officer