



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

MNSD

### Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of double the security deposit.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the service address noted on the Application, on September 20, 2010. The Tenant submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the 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.

### Background and Evidence

The Tenant stated that she moved into the rental unit in August or September of 2009, at which time the property was owned by a different landlord; that the property was sold about one month after she moved into the rental unit; that she was required to pay monthly rent of \$950.00; and that she moved out of the rental unit on January 31, 2010.

The Tenant submitted a copy of a receipt that shows she paid a security deposit of \$450.00 on August 19, 2009.

The Tenant stated that she sent the Landlord a letter on April 13, 2010, a copy of which was submitted in evidence, by regular mail on April 13, 2010. In the letter the Tenant provided the Landlord with her forwarding address.

The Tenant stated that she did not authorize the Landlord to retain the security deposit and that the Landlord did not file an Application claiming against the security deposit. She stated that the Landlord returned \$200.00 of the security deposit to her on April 07, 2010 and \$260.00 of the deposit to her on December 06, 2010.

### 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 paid a security deposit of \$450.00 to the original landlord; that the Landlord returned \$200.00 of the deposit on April 07, 2010 and \$260.00 on December 06, 2010; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; that the Landlord did not file an Application for Dispute Resolution claiming against the deposit; and that the Landlord did not have authorization to retain any portion of it.

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 January 31, 2010 and that the Tenant provided the Landlord with a forwarding address, in writing, on April 13, 2010.

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 Landlord failed to comply with section 38(1), as the Landlord did not repay the entire security deposit or file an Application for Dispute Resolution 15 days after the receiving the Tenant's forwarding address in writing.

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 Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid.

### Conclusion

I find that the Tenant has established a monetary claim of \$900.00, which is double the security deposit paid. I find that this claim must be reduced by \$460.00, which is the amount that the Landlord has returned to the Tenant.

On this basis, I award the Tenant a monetary Order in the amount of \$440.00. In the event that the Landlord does not voluntarily 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: December 08, 2010.

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Dispute Resolution Officer