



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the tenant entitled to a monetary order for double her security deposit?

### Background and Evidence

The parties agreed that the tenant paid a \$900.00 security deposit on November 10, 1998 and that her tenancy ended on June 30, 2010, one day after she vacated the rental unit. The parties further agreed that the tenant gave the landlord her forwarding address on May 18.

The landlord testified that on or about July 8 he mailed the tenant a cheque for the entire amount of her security deposit and the interest that had accrued up until that date. The landlord stated that the cheque cleared his bank account on July 20.

The tenant testified that she did not receive the cheque until July 19 and argued that if the landlord had indeed mailed the cheque on July 7 or 8 there is no reason why it should have taken almost 2 weeks to arrive. The tenant claimed that she was told by Canada Post that mail sent from Vancouver to Victoria is delivered in 2 days.

### Analysis

Section 38(1) of the Act requires landlords to repay the security deposit or file a claim against it within 15 days of the later of the end of the tenancy and the date the forwarding address is received. I find that the tenancy ended on June 30 and that the landlord had until July 15 to return the deposit to the tenant. I note that the aforementioned section of the Act does not require that the tenant receive the deposit within 15 days but only that the landlord repay the deposit. I interpret this to mean that within 15 days the landlord must have issued and mailed the cheque.

While I accept that it is unreasonable for it to take almost 2 weeks for mail to be delivered from Vancouver to Victoria, I find that the letter could easily have been mailed prior to July 15. Section 90 of the Act provides that documents which are mailed are deemed received on the 5<sup>th</sup> day after having been mailed. I find that the cheque could have been mailed as late as July 14<sup>th</sup> which is within the 15 day time limit prescribed by the Act.

In order to establish her claim for double the security deposit the tenant must prove on the balance of probabilities that the cheque was not mailed prior to July 15<sup>th</sup>. For the reasons outlined above I find that the tenant has not met this burden.

### Conclusion

The claim is dismissed.

Dated: December 07, 2010

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Dispute Resolution Officer