



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNSD

### Introduction

This matter dealt with an application by the Tenant for the return of a security deposit plus compensation equal to the amount of the deposit due to the Landlord's alleged failure to return it within the time limits required under the Act.

At the beginning of the hearing, the Tenant's advocate admitted that one of the Landlords names on the application was incorrect in that it should have identified that Party as a Care Society rather than as a Manor (which was the name of the rental property it operated). The Tenant provided a copy of a One Month Notice to End Tenancy for Cause dated April 13, 2010 (issued by the Landlord) which shows the correct name of this Landlord. I find that the Society was the entity that was served with the Tenant's hearing package, and therefore I also find that there is no prejudice to the Landlords in amending the Tenant's application accordingly.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail on July 23, 2010. Section 90 of the Act says that a document delivered by mail is deemed to be received by the recipient 5 days later. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlords' absence.

### Issues(s) to be Decided

1. Is the Tenant entitled to the return of his security deposit and if so, how much?

### Background and Evidence

This tenancy started on May 1, 2008 and ended on June 30, 2010 pursuant to an Order of Possession granted to the Landlord (by agreement) on April 28, 2010. Rent was \$296.00 per month. The Tenant paid a security deposit of \$227.50 and a pet deposit of \$227.50 at the beginning of the tenancy. The Tenant's pet deposit was returned to him at the end of the tenancy.

The Tenant said he gave his forwarding address in writing to the Landlords via fax on June 3, 2010. The Tenant admitted that he gave the Landlords written authorization to



# Dispute Resolution Services

Page: 2

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deduct \$40.00 from his security deposit but claimed he has not received the balance of his security deposit.

## Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he or she receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit.

I find that the Landlords received the the Tenant's forwarding address in writing on June 6, 2010 (or 3 days after it was faxed pursuant to s. 90(b) of the Act) and that the tenancy ended on June 30, 2010. I also find that the Landlords did not return the Tenant's security deposit, that the Landlords only had written authorization to keep \$40.00 of the security deposit and did not make an application for dispute resolution to make a claim against the balance of the security deposit. As a result, I find that pursuant to s. 38(6) of the Act, the Landlords must return to the Tenant the balance of the security deposit of \$187.50 plus compensation equal to the amount of the security deposit (or \$227.50) with accrued interest of \$1.88 (on the original amount).

I also note that in accepting a security deposit and a pet deposit which both exceeded ½ of one month's rent payable under the tenancy agreement, that the Landlords contravened s. 19 of the Act.

## Conclusion

A Monetary Order in the amount of **\$416.88** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 13, 2010.

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Dispute Resolution Officer