



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      MNSD & FF

### Introduction

This hearing dealt with an application by the tenant seeking the return of double her security deposit. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

### Issue(s) to be Decided

Did the landlord fail to comply with section 38(1) of the *Act* entitling the tenant to the return of double her security deposit?

### Background and Evidence

This tenancy began on September 15, 2009 for the monthly rent of \$1,095.00 and a security deposit of \$547.50 paid on September 12, 2009. The tenancy ended effective July 31, 2010. The parties did not complete written move in or move out condition inspection reports as required by the *Act*.

The tenant testified that she provided the landlord with her forwarding address in writing on the same letter providing notice to end the tenancy in the last week of June 2010. After the tenant did not receive her deposit, she e-mailed the landlord on August 19, 2010 providing her forwarding address again.

The landlord returned the tenant a portion of her security deposit on August 31, 2010 in the amount of \$422.50. The tenant has not cashed this cheque. The landlord stated in an e-mail to the tenant on September 13, 2010 that deductions were made to the security deposit to reflect costs for cleaning the rental unit.

### Analysis

Based on the testimony and evidence provided, and on a balance of probabilities, I find as follows:

I grant the tenant's application for Dispute Resolution and Order that the landlord pay the tenant double her security deposit pursuant to section 38(6) of the *Act*.

Section 38(1) of the *Act* requires a landlord to either return a tenant's security deposit or to file an application for Dispute Resolution to retain the security deposit within 15 days of receiving the tenant's forwarding address in writing. Section 38(6) of the *Act* states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the security deposit.

I accept the evidence of the tenant that the landlord received her forwarding address in writing on two occasions, once at the end of June 2010 and again on August 19, 2010. I accept that the landlord did not file an application for Dispute Resolution requesting to retain the tenant's security deposit and instead returned only a portion of the tenant's security deposit without the tenant's written consent to make the deductions.

Having granted the tenant's application, I also grant the tenant's request to recover the filing fee paid for submitting this application from the landlord. I find that the tenant has established a total monetary claim for the sum of **\$1,145.00**. This sum is comprised of double the security of \$547.50 plus the recovery of the \$50.00 filing fee.

### Conclusion

I grant the tenant's application and have issued a monetary Order for the sum of **\$1,145.00**. This Order must be served upon the landlord. This Order 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: January 19, 2011.

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Residential Tenancy Branch