



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an application for Dispute Resolution by the tenants seeking the return of their security deposit and recovery of the filing fee.

The parties appeared, gave affirmed testimony and were provided the opportunity to present evidence orally and in documentary form and make submissions to me.

### Issue(s) to be Decided

Has the landlord breached the tenancy agreement, Residential Tenancy Act (the “Act”) and regulations entitling the tenants to the return of double their security deposit and to recover the filing fee?

### Background and Evidence

The parties’ most recent one year tenancy agreement began on May 1, 2010, and ended on April 30, 2011 at the end of the fixed term. The monthly rent was \$1,600.00. and the landlord is holding a security deposit of \$775.00 on behalf of the tenants, paid on or about on May 1, 2009.

The tenant testified that the landlord was verbally provided the tenants’ forwarding address on April 30, 2011, at which time the landlord wrote the address on a piece of paper.

The landlord acknowledged receiving the tenants’ forwarding address on April 30, 2011, in this manner, which was the day the tenants vacated the rental unit.

The tenant testified that they received only a portion of their security deposit from the landlord in the amount of \$400.00. The tenants provided a copy of the letter the landlord sent which indicated that \$375.00 had been deducted from the security deposit for alleged damages. The tenant submitted that the landlord stated to them the day of the inspection that the rental unit looked fine.

The landlord acknowledged that she had deducted \$375.00 from the tenants' security deposit, citing that she believed she was entitled to deduct this amount due to alleged damages.

### Analysis

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

I grant the tenants' application for Dispute Resolution and Order that the landlord pay the tenant double their security deposit pursuant to section 38(6) of the *Act* less the \$375.00 previously returned.

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 tenants and the confirmation by the landlord that the landlord received their forwarding address due to the landlord writing the same and that the landlord did not file an application for Dispute Resolution requesting to retain the tenants' security deposit. Contrary to the *Act* the landlord made a deduction from the tenants' security deposit without their written consent.

Having granted the tenants' application, I also grant the tenants' request to recover the filing fee paid for submitting this application from the landlord. I find that the tenants have established a total monetary claim for the sum of **\$1,225.00**.

This sum is comprised of double the security deposit of \$775.00 plus the \$50.00 filing fee. From this sum I deduct the sum of \$375.00 which the landlord has already returned to the tenants.

### Conclusion

I grant the tenants' application and have issued a monetary Order for the sum of **\$1,225.00**.

I am enclosing a monetary order for \$1,225.00 with the tenants' Decision. This order is a **legally binding, final order**, and it may be filed in the Provincial Court of British Columbia (Small Claims) should the landlord fail to comply with this monetary order.

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: August 25, 2011.

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Residential Tenancy Branch