



# 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 by the tenant for return of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

This tenancy began January 1, 2010 with monthly rent of \$1500.00 and the tenant paid a security deposit of \$750.00 and an electricity deposit of \$300.00.

The tenant testified that he vacated the rental unit in July 2010 and that he had provided the landlord with his forwarding address in writing in November 2010.

The landlord testified that he did receive the tenant's forward address as stated by the tenant but they had not returned the tenant's security deposit as there was damage to the unit that had been caused by the tenant. The landlords also stated that the tenant had broken the fixed term tenancy and that they had not been aware of the requirement to file a claim through this office.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to a monetary order for return of double the security deposit.

Section 38(1) of the Residential Tenancy Act *provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of*

*the tenancy and the date the landlord received the tenant's forwarding address in writing.*

*Section 38(6) of the Residential Tenancy Act provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit.*

*Section 20(b) of the Residential Tenancy Act provides in part that a landlord must not require or accept more than one security deposit in respect of a tenancy agreement.*

*Residential Tenancy Policy Guideline 29 provides in part that monies received by a landlord, irrespective of any agreement between a landlord or a tenant would be, or form part of, a security deposit.*

Therefore the \$300.00 'electricity deposit' required by the landlord as defined by the *Act*, is a security deposit resulting in a total security deposit of \$1050.00 having been paid by the tenant and this amount does not comply with the *Act*. The landlords have also not obtained an agreement in writing from the tenant to keep any or all of the security deposit nor have they filed through this office to make a claim against the security deposit resulting in non-compliance with the *Act*.

Accordingly I find that the tenant is entitled to a monetary order for \$2100.00 in return of the security deposit.

The tenant is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I find that the tenant has established a monetary claim for **\$2100.00**. The tenant is also entitled to recovery of the \$50.00 filing fee. I grant the tenant a monetary order under section 67 of the *Act* for **\$2150.00**.

If the amount is not paid by the landlords, 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: September 7, 2011

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Residential Tenancy Branch