



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was convened by way of conference call in response to an application made by the tenant for return of double the amount of the security deposit. The hearing originally commenced on July 12, 2011, at which time the tenant attended, however, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on March 30, 2011, the landlord did not attend. The hearing was adjourned to today's date and the landlord was notified by the Residential Tenancy Branch of the new date and time for the hearing to reconvene. The tenant and a witness attended the hearing and gave affirmed testimony however the landlord did not attend. All evidence and testimony provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Is the tenant entitled to return of the security deposit, or double the amount of the security deposit?

### Background and Evidence

The tenant testified that this month-to-month tenancy began on June 1, 2005 and ended on February 13, 2011 although the tenant paid rent to February 15, 2011. Rent in the amount of \$750.00 per month was payable at the beginning of the tenancy but due to an agreement made between the parties about a year after the tenancy began, the monthly rent was reduced to \$650.00, and there are no rental arrears. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$375.00. No move-in or move-out condition inspection reports were completed.

The tenant further testified that when moving out, the landlord had arranged for a truck and driver to move the tenant's belongings and told the tenant that the payment for that service was \$150.00 and the amount would be deducted from the security deposit. The driver then asked the tenant for money, and the tenant advised that the landlord would pay for it.

The tenant sent a letter to the landlord on February 25, 2011, a copy of which was provided as evidence prior to the hearing, which contained the tenant's forwarding address and a request for return of the balance of the security deposit. The tenant also provided evidence of having sent that letter to the landlord by registered mail. The tenant has not received any portion of the security deposit from the landlord.

The witness provided oral testimony of being present and assisting the tenant with moving out of the rental unit and overheard the landlord state that the moving truck cost was \$150.00 which would be taken from the security deposit and the balance of the security deposit would be returned to the tenant. The witness stated that the amount was appalling because the driver did not move anything but simply drove the truck.

### Analysis

The *Residential Tenancy Act* states that a landlord must return a security deposit or apply for dispute resolution to claim any amount from the security deposit within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. I find that the tenancy ended on February 13, 2011 and the landlord was provided with a forwarding address in writing, which is deemed to have been received by the landlord 5 days after mailing, or on March 2, 2011. The landlord has not returned the security deposit and has not applied for dispute resolution within the 15 days required under the *Act*, and therefore, the tenant is entitled to double return of the deposit.

The *Act* also states that a landlord may retain an amount from a security deposit at the end of a tenancy, an amount that the tenant agrees in writing the landlord may retain to pay a liability or obligation of the tenant. The landlord has not provided any such written agreement, and the tenant's evidence is that the landlord told the tenant of the \$150.00 cost for the driver of the moving truck, but did not provide any evidence that it was agreed to in writing. Therefore, under the *Act*, I find that the landlord was not authorized to deduct \$150.00 from the security deposit and the tenant is entitled to full recovery.

### Conclusion

For the reasons set out above, I hereby grant a monetary order pursuant to Section 67 of the *Residential Tenancy Act* in favour of the tenant in the amount of \$750.00. This

order may be filed in the Provincial Court of British Columbia, Small Claims division 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 21, 2011.

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Residential Tenancy Branch