



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC

### 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 as required by the Act.

The Tenant said he served the Landlord with his Application and Notice of Hearing (the "hearing package") by registered mail on October 13, 2011. According to the Canada Post online tracking system, a notification card was left for the Landlord on October 18 and 24, 2011 however he did not pick up the mail and it was returned to the Tenant. The Tenant said he contacted the Landlord after the hearing package was returned to him and the Landlord advised him that he would not accept his mail. Section 90 of the Act says that a document delivered by mail is deemed to be received by the recipient 5 days later (even if he refuses to pick it up). Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

### Issue(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 was supposed to start on September 28, 2011. The Tenant said he viewed the rental unit and paid the Landlord a security deposit of \$325.00 on September 16, 2011. However, the Tenant said that he asked the Landlord if he could go to the rental unit a little early to conduct prayers before moving in and the Landlord told him he did not want him as a tenant.

The Tenant said he asked the Landlord to return his security deposit but he refused. Consequently, the Tenant said on September 29, 2011, he mailed the Landlord a letter with his forwarding address. The Tenant said he did not give the Landlord written authorization to keep his security deposit and it has not been returned to him.

### 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 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 tenancy ended on or about September 27, 2011 prior to the Tenant taking possession of the rental unit. I also find that the Landlord received the Tenant's forwarding address in writing 5 days after the Tenant mailed his letter of September 29, 2011 (pursuant to s. 90 of the Act) or on October 4, 2011. Consequently, ***the Landlord had until October 19, 2011 at the latest*** to either return the Tenant's security deposit or to file an application for dispute resolution to make a claim against it. I find that the Landlord did not return the Tenant's security deposit of \$375.00, did not have the Tenant's written authorization to keep the security deposit and did not make an application for dispute resolution to make a claim against the deposit. As a result, I find pursuant to s. 38(6) of the Act that the Landlord must return double the amount of the security deposit or \$650.00.

### Conclusion

A Monetary Order in the amount of **\$650.00** 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: November 07, 2011.

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Residential Tenancy Branch