



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNSD, FF

### Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. The tenant sent the Notice of hearing package to the landlord via registered mail on September 27, 2011. A copy of the returned envelope, indicating the mail had not been claimed, was supplied as evidence. The landlord agreed that they received the Notice of hearing after the tenant left the package at their door on November 15, 2011. I found that the Notice of hearing was served on the 5<sup>th</sup> day after mailing; October 2, 2011.

At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Issue(s) to be Decided

Is the tenant entitled to return of double the \$500.00 deposit paid?

Is the tenant entitled to filing fee costs?

### Background and Evidence

The parties agreed that this tenancy commenced in October 2010; the tenant paid a deposit in the sum of \$500.00 and vacated the rental unit on August 31, 2011. No condition inspection reports were completed.

The landlord confirmed receipt of a hand-written forwarding address on August 31, 2011. Several days later the landlord examined the note and believed the address was illegible. The landlord did send the tenant a letter to that address; setting out a claim against the deposit. The landlord testified that the spelling of the street name and

postal code differed somewhat from the address provided on the tenant's application for dispute resolution. The letter mailed to the tenant was returned.

The tenant testified that she has kept a carbon copy of the note given to the landlord and that her copy is not illegible and that the address given was her parents' address. The tenant has not received return of the deposit.

The tenant offered the landlord a settlement in the sum of \$500.00; requesting \$500.00 be returned. The landlord wishes to proceed with their application submitted yesterday.

### Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. Condition inspection reports were not completed by the landlord; yesterday the landlord submitted an application for dispute resolution.

I find that the landlord was given a written forwarding address on August 31, 2011. I find that the landlord did not return the deposit to that address, but sent a letter informing the tenant of a claim against the deposit. Even though the landlord has testified the mail sent to the tenant's address was returned to the landlord, I find that the landlord failed to attempt to return the deposit to the address provided by the tenant on August 31, 2011.

A landlord may not retain the deposit unless the tenant agrees, in writing, at the end of the tenancy. In the absence of agreement, the landlord must either return the deposit or submit a claim against the deposit within 15 days of receiving a written forwarding address. Therefore, pursuant to section 38(6) of the Act, I find that the tenant is entitled to return of double the \$500.00 deposit paid to the landlord.

I find that the tenant's application has merit I find that the tenant is entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the tenant has established a monetary claim, in the amount of \$1,050.00, which is comprised of double the deposit and \$50.00 in compensation for the filing fee paid by the tenant for this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order for \$1,050.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, 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: December 13, 2011.

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Residential Tenancy Branch