



# 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.

Both parties were present at the hearing. 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.

### Preliminary Matters

The landlord testified that the tenant served her with a copy of the Notice of Hearing but she did not receive a copy of the tenant's application; however, the landlord agreed to proceed with the hearing.

Neither party served the other with evidence. The landlord could not do so as she had not received the tenant's application, which would have provided her with his address. The parties agreed we would reference a copy of the tenancy agreement that was supplied; they each had a copy. Agreement was reached that specific evidence would be referenced if each party had a copy of the document before them.

### Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

### Background and Evidence

On July 9, 2011, the parties signed a tenancy agreement that was to commence on August 13, 2011. This was a 1 year fixed-term, ending on August 15, 2012, at which time the tenant would vacate the unit.

A deposit in the sum of \$1,300.00 was paid.

On July 21, 2011, the tenant sent the landlord an email indicating he would not move into the unit. After some on-going contact the landlord accepted that the tenant was not going to take possession of the unit. The landlord then commenced a search for new occupants.

Once the landlord accepted the tenant was not going to take possession of the unit the tenant did not supply the landlord with a written forwarding address.

### Analysis

Section 16 of the Act provides:

***16** The rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.*

Therefore, I find that the tenancy commenced on the date the parties signed the tenancy agreement; July 9, 2011.

I find that the tenancy ended on July 24, 2011; the date the landlord accepted the tenant's declaration that he would not take possession of the unit.

I find that the tenant has made an application requesting return of the deposit prior to giving the landlord his written forwarding address, as required by section 38(1)(b) of the Act. The tenant acknowledged he had not given a forwarding address at any time after the tenancy agreement was signed. Therefore, the tenant's application is premature and dismissed with leave to reapply.

A copy of the *Guide for Landlords and Tenant in British Columbia* is enclosed for each party.

### Conclusion

The application is dismissed with leave to reapply.

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