



# Dispute Resolution Services

Page: 1

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. 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.

### Preliminary Matters

The tenant submitted photographs that were not served to the landlord; these were not referenced during the hearing. Further, the photos did not relate to the matter before me.

### Issue(s) to be Decided

Is the tenant entitled to return of the deposit paid?

Is the tenant entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on August 28, 2011; rent was \$600.00 per month, due on the first day of each month. A deposit in the sum of \$300.00 was paid.

The tenant stated he did not receive a copy of the tenancy agreement; the landlord testified that the copy was "on the table" for the tenant to pick up.

Condition inspection reports were not completed.

The landlord stated this was a fixed-term tenancy; the tenant stated it was a month to month tenancy.

The tenant vacated the rental unit on September 5, 2011. The tenancy lasted only 9 days.

The landlord confirmed receipt of the tenant's forwarding address in writing, on September 10, 2011. The landlord has returned \$150.00 of the deposit; the tenant has that cheque. The tenant did not agree in writing to any deductions from the deposit.

### 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. In this case there is no dispute related to damages before me.

Move-in condition inspection and move-out condition inspection reports were not completed. Only \$150.00 of the deposit was returned by the landlord; the landlord has not applied claiming against the deposit. Therefore, pursuant to section 38(6) of the Act, I find that the tenant is entitled to return of double the \$300.00 deposit paid to the landlord.

I find that the tenant's application has merit, and 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 \$650.00, which is comprised of double the deposit paid 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 \$650.00. 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.

If the tenant cashes the cheque he is holding in the sum of \$150.00 the value of the monetary order will be reduced by that amount.

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 16, 2011.

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Residential Tenancy Branch