



# 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. 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 the deposit paid?

Is the tenant entitled to filing fee costs?

### Background and Evidence

The parties agreed to the following facts:

- On June 17, 2011, the tenant paid a deposit in the sum of \$425.00 to the landlord;
- That the tenant was to take possession of the rental unit on July 1, 2011;
- That the tenant changed his mind, said he would not move in and asked that the deposit be returned;
- That the landlord refused to return the deposit; and
- That the landlord located new occupants who took possession of the unit on July 1, 2011.

The tenant had then approached the landlord, and told him he would take possession of the unit, at which point the landlord told the tenant he could not move in and that the deposit would not be returned. This was confirmed by both parties.

The tenant had not provided the landlord with a written forwarding address.

### Analysis

When a tenant pays a security deposit and reaches an agreement to take possession of a unit, a contract is established. The tenant entered into a contract with the landlord; attempted to cancel the contract, requested his deposit and, then changed his mind again and decided to move into the unit.

The landlord denied the tenant the opportunity to take possession; he had located new occupants for the first day of the month.

Once the tenant and landlord entered the contract there were 2 methods of terminating a periodic tenancy; either via proper written notice as provided by section 45 of the Act, or a mutual written agreement; neither occurred.

During the hearing I explained the responsibilities of each party; the tenant could not renege on his responsibility to move into the unit. The tenancy ended, prior to July 1, 2011, as new occupants took possession of the unit, but the tenant failed to give a written forwarding address to the landlord, which would have then required the landlord to return the deposit within 15 days.

As the tenancy has ended and the landlord has no legitimate claim against the deposit, I Order the landlord to return the deposit to the tenant. As the tenant failed to provide the landlord with a written forwarding address, I decline the filing fee cost.

### Conclusion

I find that the tenant has established a monetary claim, in the amount of \$425.00, which is comprised of the deposit paid.

Based on these determinations I grant the tenant a monetary Order for \$425.00. 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: January 31, 2012.

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Residential Tenancy Branch