



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of their security deposit, doubled, for a return of their key deposit, and to recover the cost of the filing fee from the landlord for this application.

The landlord did not appear at the hearing.

The tenant testified and supplied evidence that they served the Application and Hearing Package upon the landlord via registered mail on December 6, 2011, to the address listed on the tenancy agreement by the landlord for service. The tenant submitted proof that the mail had been successfully delivered.

Having been satisfied the tenants served the landlord in a manner that complies with section 89 of the Residential Tenancy Act (the "Act"), the hearing proceeded in the landlord's absence.

The male tenant appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in documentary form and make submissions to me.

### Issue(s) to be Decided

Are the tenants entitled to a Monetary Order under sections 38, 67, and 72 of the *Residential Tenancy Act*?

### Background and Evidence

The tenant testified and supplied evidence that this one year, fixed term tenancy began on July 1, 2010, continued after the fixed term on a month to month basis, and ended on October 31, 2011. The tenant testified and supplied evidence that the tenants paid a security deposit of \$750.00 and a refundable key deposit of \$150.00 on June 29, 2010.

The tenant gave affirmed testimony that the landlord was provided the tenants' written forwarding address, on November 1, 2011. The tenant stated that they met with the landlord's agent at the rental unit that day, at which time the parties performed a walk-through inspection.

The tenant testified that the tenants' forwarding address was written on the reverse of the landlord's copy of the tenancy agreement, at the landlord's agent request and which the landlord's agent had in her possession.

The tenant testified that he sent an email to the landlord's agent on December 7, 2011, following up on the request for a return of the security deposit. The tenant stated that he received a response to that email by the landlord's agent.

The tenant testified that there was no move-in or move-out condition inspection report, that they have not signed over any portion of their security deposit to the landlord and that they have received neither their security deposit or key deposit from the landlord.

There is no evidence before me that the landlord has filed for Dispute Resolution.

### Analysis

Based on the testimony, evidence and a balance of probabilities, I find as follows:

In order to justify payment of loss under section 67 of the *Act*, the applicants/tenants are required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in losses to the applicants pursuant to section 7.

In the absence of the landlord, the tenants' testimony and evidence will be preferred.

I accept the uncontradicted evidence and testimony of the tenants that the tenancy ended on October 31, 2011, the landlord was provided the tenants' written forwarding address on November 1, 2011, and has not returned the tenants' security deposit.

Based on the above, I find that the landlord failed to comply with Section 38 of the *Act* and I therefore find the tenants are entitled to a return of their security deposit, doubled, pursuant to Section 38(6) of the *Act*.

I also find that the landlord failed to return the key deposit of \$150.00, and that the tenants are entitled to compensation for this deposit.

I find the tenants' application had merit and I award them recovery of their filing fee, in the amount of \$50.00.

Conclusion

I find the tenants have established a **monetary claim** in the amount of **\$1,700.00**, comprised of their security deposit of \$750.00, doubled, the key deposit of \$150.00 and \$50.00 for the filing fee.

I grant the tenants a monetary order for the sum of **\$1,700.00**, pursuant to section 67 of the Act.

I am enclosing a monetary order for \$1,700.00 with the tenants' Decision. This monetary order is a **legally binding, final order**, and it may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement should the landlord fail to comply with this monetary order.

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: February 14, 2012.

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Residential Tenancy Branch