



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNSD, MND, FF

### Introduction

This was a cross-application hearing.

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.

The landlord applied requesting compensation for damage to the rental unit.

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 confirmed receipt of the landlord's application on February 19, 2012; 5 days after the landlord applied.

The only evidence submitted by the landlord, a small set of photographs, was submitted to the Residential Tenancy Branch on February 16, 2012. As this evidence was served late, it was set aside. The tenant testified he did not receive those photographs.

The landlord confirmed receipt of the tenant's hand-written November, 16, 2011, note; the tenant's only evidence submission.

### Issue(s) to be Decided

Is the tenant entitled to return of double the deposit paid?

Is the landlord entitled to \$100.00 for lock replacement?

Is the tenant entitled to filing fee costs?

### Background and Evidence

The parties agreed that the tenancy commenced 3 years ago at which time a deposit in the sum of \$450.00 was paid. A move-in condition inspection was completed mid-way through the tenancy, when the tenant had someone else move in with him. There was no move-out inspection; the landlord did not provide the tenant with 2 opportunities to complete an inspection.

The landlord confirmed receipt of the tenant's hand-written November 16, 2011, note requesting return of the deposit to the forwarding address contained in the note. The landlord stated he returned a cheque in the sum of \$3341.70, as the tenant had agreed to a deduction from the deposit. The cheque has not been cashed.

The tenant testified that he did not receive the cheque and did not discuss any damages with the landlord, outside of the fence, which was not his responsibility.

The landlord stated he did talk to the tenant about a move-out inspection but the tenant wanted to complete it at night and the landlord wanted to complete the inspection during the day.

The landlord stated he replaced the lock to the unit as one of the tenant's roommates departed with a key.

### 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 the landlord has failed to provide any verification of the amount claimed for the lock; therefore, I find that the claim for costs is dismissed.

Further, in the absence of condition inspection reports the landlord's right to claim against the deposit for damage was extinguished. The landlord had 15 days to return the deposit once he had been given the forwarding address; when he failed to do so the Act requires the landlord to pay the tenant double the deposit.

Therefore, I find that the tenant is entitled to return of double the \$450.00 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.

I have enclosed a copy of the *Guide for Landlords and Tenants in British Columbia* for each party.

### Conclusion

I find that the tenant has established a monetary claim, in the amount of \$950.00, 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 \$950.00. 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.

The landlord's application is dismissed.

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 21, 2012.

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Residential Tenancy Branch