



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This matter dealt with an application by the Tenant for the return of a security deposit plus compensation equal to the amount of the deposit due to the Landlord's alleged failure to return it as required by the Act and to recover the filing fee for this proceeding.

The Tenant's application set out the names of two parties as Landlords, namely, R.L., (who is the property owner) and G.M. (who acted as the agent for R.L. during the tenancy). The Tenant said at the end of the tenancy, R.L. refused to deal with her regarding her requests for the return of the security deposit and told her she would have to deal with the property owner, R.L., but refused to provide her with any contact information for R.L. Consequently, the Tenant admitted she did not serve R.L. with a copy of her application. The Tenant said, however, that she served G.M. on December 30, 2011 with the Application and Notice of Hearing (the "hearing package") by registered mail and that she received it on January 5, 2012.

For the reasons set out below (in the Analysis section), I find that G.M. is properly named as a Party or Landlord in these proceedings. Based on the evidence of the Tenant I find that the Landlord, R.L., was not served with the Tenant's hearing package and as a result, the style of cause is amended by removing him as a party. I also find that the Landlord, G.M. was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeding in her absence.

### Issue(s) to be Decided

1. Is the Tenant entitled to the return of a security deposit and if so, how much?

### Background and Evidence

This month-to-month tenancy started on August 1, 2011 and ended on November 30, 2011 when the Tenant moved out. Rent was \$550.00 per month payable in advance on the last day of the preceding month. The Tenant paid a security deposit of \$275.00 at the beginning of the tenancy.

The Tenant said she was advised by the owner's agent, G.M., at the end of the tenancy to leave the keys to the rental unit on the counter and to lock the door behind her and that her security deposit would be returned to her in approximately a week. The Tenant said the Landlord did not ask her to participate in a move out inspection. Consequently, the Tenant said she left the keys together with a note containing her forwarding address on the kitchen counter. The Tenant said that when she did not receive her security deposit back, she called G.M. a number of times but G.M. would not return her calls. The Tenant said it was only after she served G.M. on or about January 2, 2012 in person with another copy of her forwarding address in writing that G.M. advised her that she would have to deal with the owner of the rental property over the security deposit.

The Tenant said she only dealt with G.M. throughout the tenancy. The Tenant said G.M. signed the tenancy agreement on behalf of the owner and collected her rent and security deposit. The Tenant said she did not give the Landlord written authorization to keep her security deposit and it has not been returned to her.

### Analysis

Section 1 of the Act defines a **Landlord** as including any of the following:

“the owner of the rental unit, the owner's agent or another person who on behalf of the landlord, permits occupation of the rental unit under a tenancy agreement, or exercises powers and performs duties under the Act or tenancy agreement.”

Given that G.M. executed the tenancy agreement on behalf of the owner of the rental unit and collected rent each month from the Tenant, I find that G.M. was an agent for the property owner and therefore is a Landlord as defined under the Act.

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date she receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit or to make an application for dispute resolution to make a claim against it. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit.

I find that the Tenant left her forwarding address in the rental unit on November 30, 2011 and hand delivered another copy of it to G.M. on or about January 2, 2012. I also find that the Landlord did not have the Tenant's written authorization to keep the security deposit, did not make an application for dispute resolution to make a claim against the deposit and has not returned the security deposit of \$275.00 to the Tenant. As a result, I find that pursuant to s. 38(6) of the Act, the Landlord must return double

the amount of the security deposit of \$550.00 to the Tenant. I also find pursuant to s. 72 of the Act that the Tenant is entitled to recover from the Landlord the \$50.00 filing fee she paid for this proceeding.

### Conclusion

A Monetary Order in the amount of **\$600.00** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: February 22, 2012.

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Residential Tenancy Branch