



# 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 Tenants for the return of a security deposit and to recover the filing fee for this proceeding.

The Tenants said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on February 27, 2012. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absence.

### Issues(s) to be Decided

1. Are the Tenants entitled to the return of their security deposit?

### Background and Evidence

This tenancy started on April 1, 2011, as a month to month tenancy. The tenancy ended January 31, 2012. Rent was \$1,500.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$750.00 on March 5, 2011.

The Tenants said that they moved out of the rental unit on January 31, 2012 and gave the Landlord a forwarding address in writing on February 6, 2012. The Tenants said there were no move in or move out condition inspection reports completed. The Tenants continued to say that they cleaned the unit before leaving and they asked the Landlord for their security deposit of \$750.00 back. The Tenant said the Landlord said there were damages to the unit so the Landlord said he would not give them the security deposit back.

The Landlord did not attend the Hearing, but he did send in a letter and photographs of the unit. The Landlord said in his letter that he retained the Tenants’ security deposit do repairs to the unit to bring the unit back to the unit’s previous condition.

The Tenants said they cleaned the unit before they left and they believe there were no damages to the unit when they moved out. The Tenants’ requested double their security deposit in the amount of \$1,500.00 to be returned as specified in the Act.

## Analysis

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and
- (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

I find from that the Tenants did give the Landlord a forwarding address in writing on February 6, 2012. The Landlord did not repay security deposit to the Tenants within 15 days of the end of the tenancy or 15 days after receiving the Tenants' forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenants and grant an order for double the security deposit of \$750.00 in the amount of  $\$750.00 \times 2 = \$1,500.00$ .



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As the Tenants are successful in this matter I further order the Tenants to recover the filing fee of \$50.00 for this proceeding from the Landlord. Pursuant to section 67 a monetary order for \$1,550.00 will be issued to the Tenants. This Monetary Order represents double the security deposit of \$1,500.00 and the filing fee of \$50.00.

## Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$1,550.00 to the Tenants. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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*.

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Dispute Resolution Officer