



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNSD, FF

### Introduction

This hearing concerns the tenant's application for a monetary order as compensation for return of the original amount of his security deposit / and recovery of the filing fee. The tenant participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing by way of registered mail, the landlord did not appear. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mail.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, what became a month-to-month tenancy began on February 1, 2010. Monthly rent of \$725.00 was due and payable in advance on the first day of each month, and a security deposit of \$350.00 was collected. A move-in condition inspection report was not completed.

By letter dated January 31, 2012, the tenant gave notice to end the tenancy effective March 1, 2012. Thereafter, the tenant vacated the unit on or about February 28, 2012. A move-out condition inspection report was not completed.

On or about March 12, 2012, the tenant delivered his forwarding address in writing to the landlord, and requested the return of his security deposit. However, the landlord has not returned the security deposit, and neither has the landlord sought authority to retain the security deposit by filing an application for dispute resolution.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days of the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord has neither returned the tenant's security deposit, nor filed an application for dispute resolution within 15 days after being informed of the tenant's forwarding address in writing. Accordingly, while I find that the tenant has established entitlement to the double return of the security deposit, the tenant has specifically requested repayment limited to the original amount of the security deposit of \$350.00.

As the tenant has succeeded in his application to recover the security deposit, I find that he has also established entitlement to recovery of the \$50.00 filing fee.

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$400.00** (\$350.00 + \$50.00). Should it be necessary, this order may be served on the landlord, filed in the 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: July 10, 2012.

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Residential Tenancy Branch