



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDC, MNSD, FF

### **Introduction**

This hearing was convened upon the application by the tenants seeking recovery of their security deposit.

Total sum sought by the tenants in their application \$250.00.

Both parties appeared at the hearing and gave evidence under oath.

### **Background Summary**

The evidence of the tenants is that this tenancy ended and the tenant provided her forwarding address to the landlord. The landlord returned \$250.00 of the \$500.00 deposit although the tenants did not authorize any deduction from their deposit. The tenant therefore seeks a monetary order for recovery of the balance owing of \$250.00.

The landlord does not dispute that she is holding \$250.00 of the tenants' deposit.

### **Findings**

Section 38(1) of the Act requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit for cleaning and/or damages or any other cause for which a landlord may make such an application.

If the landlord fails to comply with section 38(1), then the landlord may not make a claim against the deposit, and the landlord must pay the tenant double the amount of the deposit (section 38(6)).

I find that the landlord did not comply with Section 38 because she withheld a portion of the tenants deposit. She must therefore return the portion she withheld. Normally, the

landlord would be required to return double the sum she has retained however the tenants have filed their claim seeking the balance withheld only. In the interests of natural justice and the landlord having full notice of the claim being made against her, will allow the tenants only the \$250.00 as claimed.

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. This is a final and binding Order enforceable as any Order of the Provincial Court of British Columbia.

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: August 08, 2012.

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Residential Tenancy Branch