



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF, O

### Introduction

This matter dealt with an application by the Tenants for the return of double the security deposit, compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the filing fee and for other considerations.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on July 18, 2012. Based on the evidence of the Tenant, 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 double the security deposit?
2. Is there loss of damage and if so how much?
3. Are the Tenants entitled to compensation for loss or damage and if so how much?

### Background and Evidence

This tenancy started on February 1, 2011 as a fixed term tenancy with an expiry date of January 31, 2012 and then it renewed on a month to month basis. The tenancy ended June 16, 2012. Rent was \$1,600.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$800.00 on February 12, 2011.

The Tenant said that he moved out of the rental unit on June 16, 2012 as the Landlord had issued a 2 Month Notice to End Tenancy for Landlord's use of the property dated April 27, 2012. The Notice to End Tenancy had an effective vacancy date of July 1, 2012 on it. The Tenant said they made arrangements to move out of the rental unit on June 16, 2012 and gave the Landlord written notice of their move out date and their forwarding address on June 4, 2012. The Tenant said a copy of this letter was submitted in the evidence package. The Tenant continued to say that since they have moved out the Landlord has not returned their security deposit of \$800.00 and as a result the Tenant said they are applying for double their security deposit of \$800.00 in the amount of \$1,600.00.

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In addition the Tenant said they prepaid the water bill for the year in the amount of \$512.00 in February, 2012. The Tenant said the Landlord and he agreed that the Landlord would rebate the part of the water bill payment that was not used by the Tenants. The Tenant said he estimated the amount to be \$250.00 (1/2 the total bill) and he is unable to submit the bills as the water utility is in the Landlord's name and the Landlord has not given the Tenant a copy of the prepaid water bill. The Tenants are requesting to recover \$250.00 of the prepaid water bill that they paid in February, 2012.

Further the Tenant said under the Act if a Landlord ends a tenancy with a 2 Month Notice to End Tenancy for Landlord's use of the property, the tenants receive the equivalent of one month's rent as compensation. The Tenant said they did not pay the June, 2012 rent and are requesting their compensation be rent free from June 1, to June 16, 2012 and monetary compensation from June 16 to June 30, 2012 in the amount of \$746.66.

## 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

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(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find from that the Tenant did give the Landlord a forwarding address in writing on June 4, 2012. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenant's forwarding address in writing, nor did the Landlord apply for dispute resolution. Consequently I find for the Tenant and grant an order for double the security deposit of \$800.00 in the amount of  $\$800.00 \times 2 = \$1,600.00$ .

Further sections 49 and 50 of the Act say that a Tenant that receives a 2 Month Notice to End Tenancy for Landlord's use of the property must receive the equivalent of one month's rent as compensation for the Notice to End Tenancy or in this case \$1,600.00. In this situation the Tenant has received free rent from June 1, 2012 to June 16, 2012 which represents part of the compensation in the amount of \$853.33 ( $\$1,600.00 \times 16/30$  days = \$853.33). As for the balance of the compensation, I award the Tenant \$746.67 ( $\$1,600.00 \times 14/30$  days = \$746.67) which represents the equivalent of rent from June 16 to June 30, 2012.

With respect to the Tenants claim to recover prepaid water utilities in the amount of \$250.00, I accept the Tenant's affirmed testimony and as this is a recovery of prepaid utilities I award the Tenant the amount of his request in the amount of \$250.00.

As the Tenants were 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 the following has been issued to the Tenant.

Double Security Deposit	\$1,600.00	
Rent Compensation	\$ 746.67	
Recover of prepaid utilities	\$ 250.00	
Filing Fee	\$ 50.00	
Balance owing		\$ 2,646.67



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## 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 \$2,646.67 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