



# 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 within the time limits required under the Act as well as to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application (and amended Application) and Notice of Hearing (the "hearing package") on June 26, 2012 by registered mail. According to the Canada Post online tracking system, the Landlord received the Tenant's hearing package on July 3, 2012. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's 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 December 31, 2010 and ended on May 30, 2012 when the Tenant moved out. Rent was \$785.00 per month. The Tenant paid a security deposit of \$392.50 at the beginning of the tenancy.

The Tenant said she gave the Landlord with her forwarding address in writing on May 30, 2012 on the move out condition inspection report. The Tenant said she did not give the Landlord written authorization to keep her security deposit and it was not returned to her until after she filed her application for dispute resolution. The Tenant said the Landlord sent her a cheque dated June 14, 2012 for the amount of the security deposit however the postmark date on the envelope (showing the date the cheque was mailed) was June 22, 2012.

### Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date he or 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 tenancy ended on May 30, 2012 and that the Landlord received the Tenant's forwarding address in writing the same day. Consequently, the Landlord had until June 14, 2012 at the latest to return the Tenant's security deposit or to file an application for dispute resolution to make a claim against the security deposit. I find that the Landlord did not have the Tenant's written consent to keep the Tenant's security deposit and did not file an application for dispute resolution to make a claim against it. I further find that the Landlord did not return the Tenant's security deposit until June 22, 2012, after the 15 days granted under s. 38 of the Act for doing so. As a result, I find that pursuant to s. 38(6) of the Act, the Tenant is entitled to compensation equal to the amount of the security deposit or \$392.50. I also find that the Tenant is entitled pursuant to s. 72(1) of the Act to recover from the Landlord the \$50.00 filing fee she paid for this proceeding.

### Conclusion

A Monetary Order in the amount of \$442.50 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: September 05, 2012.

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Residential Tenancy Branch