



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDC, LRE, RP, PSF, FF

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss, a monetary order for a return of her security deposit, an order suspending or setting conditions on the landlord's right to enter the rental unit, an order requiring the landlord to provide services or facilities required by law, an order requiring the landlord to make repairs and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this application.

*Preliminary Issue*-The tenant has vacated the rental unit and therefore no longer is seeking orders for the landlord. I have amended her application to exclude such requests and the hearing proceeded only on the tenant's request for a monetary order.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order and to recover the filing fee?

### Background and Evidence

Neither party submitted any documentary evidence.

I heard testimony that this tenancy began on August 10, 2012, ended on or about August 25, 2012, the monthly rent was to be \$1400.00 and the tenant paid a security deposit of \$700.00 on July 25, 2012.

The tenant said that she paid prorated rent for August of \$832.00, and the landlord agreed. No issues were raised about the August rent.

The tenant said that she prepaid \$700.00 rent for September 2012, and the landlord agreed.

The tenant said she gave the landlord her written forwarding address on or about August 24, 2012, and the landlord agreed that she had the tenant's written forwarding address on August 22, 2012 when the tenant gave the landlord her notice to vacate.

When questioned, the tenant said her request for a monetary order for \$1400.00 was for a return of her security deposit of \$700.00 and the prepaid rent for September of \$700.00.

The landlord agreed that she had not returned the tenant's security deposit or the rent for September, listing as reason that the tenant gave improper notice to vacate the rental unit.

#### Analysis

Based on the relevant evidence and on a balance of probabilities, I find as follows:

Under section 44 (d), a tenancy ends when the tenant vacates the rental unit. I find the evidence supports that this tenancy ended on August 24, 2012, when the tenant vacated the rental unit.

As rent for September was not due until September 1, 2012, I find the tenant did not owe rent when she prepaid a portion of it in August, and is therefore entitled to a return of the \$700.00 she prepaid for that month. I therefore find the tenant has established a monetary claim for that amount, \$700.00.

Under section 38 of the Act, at the end of a tenancy a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy. If a landlord fails to comply, then the landlord must pay the tenant double the security deposit.

In the case before me, the undisputed evidence show that the tenancy ended and the landlord had received the tenant's written forwarding address by August 24, 2012, the tenant has not agreed to any deductions from her security deposit, the landlord has not applied for arbitration claiming against the security deposit and has not returned any portion of the tenant's security deposit.

The landlord may only keep all or a portion of the security deposit through the authority of the Act, such as an order from a Dispute Resolution Officer, or with the written agreement of the tenants. Here I find the landlord did not have any such authority to keep the security deposit any portion of the security deposit. Therefore, under section 38, I must order the landlord to pay the tenant double her security deposit.

I therefore the tenant has established a monetary claim for \$1400.00, double her security deposit.

As I find the tenant's application had merit, I allow her recovery of the filing fee of \$50.00.

### Conclusion

I find the tenant has established a monetary claim in the amount of \$2150.00, comprised of a return of her prepaid rent for September 2012 for \$700.00, her security deposit of \$700.00, doubled to \$1400.00, and for recovery of the filing fee of \$50.00.

I therefore grant the tenant a final, legally binding monetary order in the amount of \$2150.00, which I have enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement 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 21, 2012.

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Residential Tenancy Branch