



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

Landlords: MNDC and FF  
Tenant: MNSD

### Introduction

This hearing was convened on applications by both the landlords and the tenant.

By application of July 23, 2012, the landlords sought a monetary award for the cost of cleaning the rental unit and garbage removal, and recovery of the filing fee for this proceeding.

By prior application of July 16, 2012, the tenant sought return of his security deposit on the grounds that the landlord retained it without consent or application to claim against it within 15 days of the latter of receipt of the tenant's forwarding address as required under the legislation.

### Issue(s) to be Decided

The landlords' application requires a decision on whether they are entitled to a monetary award for the cost of general cleaning and garbage as requested.

The tenant's application requires a decision on whether he is entitled to return of the security deposit and whether the amount should be doubled.

### Background, Evidence and Analysis

This tenancy ran from September 1, 2011 to June 30, 2012 although the tenant gave up vacant possession on June 29, 2012. Rent was \$600 per month and the landlords held a security deposit of \$300 paid at the beginning of the tenancy.

### **Tenant's Claim**

During the hearing, the parties concurred that the tenant had provided the landlords with his forwarding address on leaving the tenancy. The parties also agreed that the landlords had returned \$200 of the deposit sent on July 7, 2012, but had retained \$100 against charges set out in the landlords' claims to follow.

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return security and pet damage deposits or file for dispute resolution to make claim against them unless the tenant has agreed otherwise in writing as per section 38(4).

I note by emails submitted into evidence that the landlords had sought the tenant's consent to retain \$150 of the deposit but when he did not agree, they arbitrarily reduced the hold back to \$100 and returned the balance.

Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposit.

In the present matter, I find that the landlords returned only the \$200 portion of the deposit, and must return the \$100 balance retained without consent or hearing in double.

### **Landlords' Claims**

The landlords still retain the right to claim for damage or loss, and in their application have submitted two claims on which I find as follows:

**General Cleaning - \$90.** The attending landlord stated that he and his co-landlord had spent at least seven hours person hours cleaning rental unit. I find this claim to be abundantly fair based on their description of the work and the claim is allowed in full.

**Garbage removal - \$10.** Based on the landlords' evidence of refuse left behind in the rental unit and the garage, I find this claim to be patently reasonable and it is allowed in full.

As to the recovery of filing fees, I find both parties have breached the *Act*.

The landlord breached the *Act* by improper completion of the move-out condition inspection report as required by section 35 and by retaining a portion of the deposit without consent or an order as required by section 38.

The tenant breached the *Act* by failing to leave the rental unit in a reasonably clean state as required by section 37 of the *Act*.

Therefore, I find that each of the parties should remain responsible for their own filing fees.

Thus, I find that accounts balance as follows:

<b>Award to tenant</b>		
To double unreturned portion of security deposit	<u>100.00</u>	
Sub total	\$200.00	\$200.00
<b>Award to landlords</b>		
General cleaning	\$90.00	
Refuse removal	<u>10.00</u>	
Sub total	\$100.00	- <u>100.00</u>
<b>Balance owed to tenant by landlords</b>		<b>\$100.00</b>

### Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$100.00** for service on the landlords if the amount is not paid within a reasonable time..

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: October 02, 2012.

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Residential Tenancy Branch