



# 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 double of part of the security deposit and the filing fee for this proceeding.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on September, 29, 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 with both the Landlord and the Tenant in attendance.

### Issues(s) to be Decided

1. Is the Tenant entitled to the return of double of part of the security deposit?

### Background and Evidence

This tenancy was to start on June 1, 2012 as a fixed term tenancy for 12 months. Rent was \$1,300.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$650.00 on or prior to June 1, 2012.

The Tenant said they were issued a 1 Month Notice to End Tenancy for the end of August, 2012 and they moved out of the rental unit on August 31, 2012. On the move out inspection the Landlord said they were retaining \$175.00 of the Tenant's security deposit for carpet cleaning. The Tenant said he did not agree with this as the carpets were not cleaned when they moved in and the tenancy only lasted 3 months. The Landlord said that she understands that the carpets may not have been cleaned in this situation as the previous tenants moved out the day before this Tenant moved in.

The Tenant continued to say he moved out on August 31, 2012 and gave the Landlord his written forwarding address on September 29, 2012 when he gave the Landlord his application and Hearing package. The Tenant said the Landlord returned \$475.00 of his security deposit and the Landlord retained \$175.00 for carpet cleaning. The Tenant said he made the application for the return of his security deposit and was told he had the right to apply for double as the Landlord had not complied with the time limits to return the Tenant's deposit. The Tenant said he is applying for \$350.00 (2 X \$175.00) and the filing fee of \$50.00 for a total of \$400.00.

The Landlord said she had phoned the Tenant and offered to return his deposit of \$175.00 and the \$50.00 filing fee, but the Tenant had not accepted her offer. The Landlord offered this same proposal again to the Tenant in the Hearing. The Tenant declined the Landlord's offer as he said he is entitled to double the security deposit because the Landlord did not return the deposit or apply to retain the deposit within 15 days of the end of tenancy and receiving the Tenant's forwarding address. The Tenant said because the Landlord mailed him part of the security deposit it was proof that the Landlord had his forwarding address.

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

I find that the Tenant did give the Landlord a forwarding address in writing on September 29, 2012. The Landlord did not repay the full 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 I award the Tenant double the unpaid portion of the security deposit of \$175.00 in the amount of  $\$175.00 \times 2 = \$350.00$ .

As the Tenant was successful in this matter I further order the Tenant to recover the filing fee of \$50.00 for this proceeding from the Landlord. Pursuant to section 38 and 67 a monetary order for \$400.00 will be issued to the Tenant. This Monetary order represents double the unpaid portion of the security deposit and the filing fee.

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| Double the unpaid portion of the security deposit | \$350.00 |
| Filing fee  | \$ 50.00 |
| Balance owing to the Tenant                       | \$400.00 |

### Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38 of the Act, I grant a Monetary Order for \$400.00 to the Tenant. 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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Residential Tenancy Branch