



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNSD and FF

### Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit and to recover the fee for filing this Application.

The Applicant stated that copies of the Application for Dispute Resolution, the Notice of Hearing, and documents the Applicant wishes to rely upon as evidence were sent to the Respondent, via registered mail, at the service address noted on the Application, on January 10, 2013. Canada Post documentation was submitted that corroborates this statement. In the absence of evidence to the contrary, I accept these documents were served to the Respondent, although she did not attend the hearing.

The Applicant stated that additional documents the Applicant wishes to rely upon as evidence were sent to the Landlord, via registered mail, at the service address noted on the Application, on March 18, 2013. He stated that the Canada Post website shows these documents have not yet been delivered to the Respondent. On the basis of this testimony, I accept that the documents have been served in accordance with section 88 of the *Residential Tenancy Act (Act)*.

### Issue(s) to be Decided

Is the Applicant entitled to the return of the security deposit?

### Preliminary Matter

Although the Applicant makes reference in the details of dispute to requesting a reimbursement "if the room was rented prior to August 31", the Applicant has not specified the amount being claimed. The total amount claimed in this Application for Dispute Resolution is \$345.00, which is the amount of the security deposit.

As the Applicant has only claimed compensation of \$345.00 and the Applicant did not apply for a monetary Order for money owed or compensation for damage or loss, I find that the Applicant has not provided sufficient details regarding the claim for a rent refund and that matter was not considered at these proceedings. The Applicant retains the

right to file another Application for Dispute Resolution, in which he seeks a monetary Order for money owed or compensation for damage or loss relating to a rent refund.

### Background and Evidence

The Applicant stated that he and his daughter entered into a verbal tenancy agreement with the Landlord; that the tenancy began on September 01, 2011; that he agreed to pay monthly rent of \$690.00; that only his daughter lived in the rental unit; that he paid a security deposit of \$345.00; that his daughter vacated the rental unit on August 18, 2011; that neither the Applicant nor his daughter authorized the Respondent to retain the security deposit; that the Respondent did not return any portion of the security deposit; and that the Respondent did not file an Application for Dispute Resolution claiming against the security deposit.

The Applicant stated that he provided the Respondent with a note, on which he wrote his forwarding address, on July 18, 2011. He stated that he also sent the Respondent his forwarding address, via email, on October 01, 2011. A copy of this email was submitted in evidence.

### Analysis

On the basis of the evidence provided by the Applicant and in the absence of evidence to the contrary, I find that the Applicant entered into a tenancy agreement with the Respondent; that he paid a security deposit of \$345.00; that the Respondent did not return any portion of the security deposit; that the Respondent did not have written authorization to retain any portion of the security deposit; that the Respondent did not file an Application for Dispute Resolution claiming against the deposit; and that the Respondent received a forwarding address for the Applicant on July 18, 2011 and October 01, 2011.

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or make an application for dispute resolution claiming against the deposits. In the circumstances before me, I find that the Respondent failed to comply with section 38(1) of the *Act*, as the Respondent has not repaid the security deposit or filed an Application for Dispute Resolution.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Respondent did not comply with section 38(1) of the *Act*, I find that the Respondent must pay the Applicant double the amount of the security deposit.

I find that the Application for Dispute Resolution has merit and that the Applicant is entitled to recover the fee for filing the Application.

Conclusion

The Applicant has established a monetary claim of \$740.00, which is comprised of double the security deposit and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event the Respondent does not voluntarily comply with this Order, it may be served on the Respondent, filed with the Province of British Columbia Small Claims Court 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: April 02, 2013

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Residential Tenancy Branch

