



# 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 filing fee from the Landlord for the cost of filing this application.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The male Tenant stated that the Application for Dispute Resolution and several documents were sent to the Landlord by registered mail sometime shortly after the Application for Dispute Resolution was filed, although he cannot recall the precise date of service. The Agent for the Landlord acknowledged receipt of the documents and they were accepted as evidence for these proceedings.

The Agent for the Landlord requested an adjournment as the Landlord has not yet submitted evidence in regards to this matter, due to a miscommunication between the Landlord and the Agent for the Landlord. He stated that the Landlord wished to submit evidence relating to damages to the rental unit. The request for an adjournment was denied, in part, because the nature of the evidence is not directly relevant to the issue in dispute and, in part, because the proceedings should not be delayed simply because the Landlord did not adequately prepare for the hearing.

### Issue(s) to be Decided

Is the Tenant entitled to the return of the security deposit paid in relation to this tenancy and to recover the cost of filing this Application for Dispute Resolution?

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on September 01, 2011; that the Tenant paid a security deposit of \$450.00; that the tenancy ended on November 30, 2012; that the Landlord received a forwarding address for the Tenant, in writing,

sometime in December of 2012; that the Tenant did not authorize the Landlord to retain any portion of the security deposit; that the Landlord did not return any portion of the security deposit; and that the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

### Analysis

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.

On the basis of the undisputed evidence, I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution since the tenancy ended on November 30, 2012 and since the Landlord received a forwarding address for the Tenant, in writing, in December of 2012.

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. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenant double the security deposit that was paid, which is \$900.00.

### Conclusion

The Tenant has established a monetary claim of \$950.00, 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 that the Landlord does not voluntarily comply with this Order, it may be 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: May 27, 2013

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Residential Tenancy Branch