



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD; FF

### **Introduction**

This is the Tenants' application for a monetary order for double the security deposit and to recover the cost of the filing fee from the Landlord.

The Tenants gave affirmed testimony at the Hearing.

It was determined that the Tenants sent the Landlord the Notice of Hearing documents by registered mail, sent on May 17, 2013, and copies of their documentary evidence by registered mail, sent August 2, 2013. The Tenants provided copies of the registered mail receipts and tracking numbers in evidence.

### **Issues to be Decided**

- Are the Tenants entitled to a Monetary Order for double the amount of the security deposit pursuant to the provisions of Section 38 of the Act?

### **Background and Evidence**

This tenancy started on July 1, 2010, and ended on March 31, 2013. The Tenants paid a security deposit in the amount of \$650.00 on July 5, 2010. The Tenants provided a copy of their cancelled cheque in evidence.

The Tenants testified that there was a one page written tenancy agreement, but the Landlord did not give them a copy.

The Tenants stated that they e-mailed the Landlord their forwarding address on April 16, 2013. The Tenants stated that they spoke to an information officer at the Residential Tenancy Branch, and on their advice also hand delivered a letter including their forwarding address to the Landlord's home on April 23, 2013. The Tenants stated that the Landlord's home was where he carried on business as a Landlord and that is where they left their rent cheques. They stated that they went to his house twice on

April 23<sup>rd</sup> and the Landlord did not answer the door either time, so they left the letter in the Landlord's door. The Tenants provided a witness's statement in evidence.

The Tenants testified that they have not received any of their security deposit back from the Landlord.

### **Analysis**

A security deposit is held in a form of trust by the Landlord for the Tenants, to be applied in accordance with the provisions of the Act.

Section 38(1) of the Act provides that (unless a landlord has the tenant's consent to retain a portion of the security deposit) at the end of the tenancy and after receipt of a tenant's forwarding address in writing, a landlord has 15 days to either:

1. repay the security deposit in full, together with any accrued interest; or
2. make an application for dispute resolution claiming against the security deposit.

I accept the Tenants' undisputed testimony that the tenancy ended on March 31, 2013, and that they provided their forwarding address in writing to the Landlord on April 23, 2013. Section 90(c) of the Act deems service in this manner to be effected 3 days after leaving it in a conspicuous place at the address where the Landlord carries on business. Therefore, I find that the Landlord received the Tenant's forwarding address on April 26, 2013.

Section 38(6) of the Act provides 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 security deposit. Therefore, I find that the Tenants are entitled to a Monetary Order in the amount of **\$1,300.00**. No interest has accrued on the security deposit.

The Tenants has been successful in their application and I find that they is entitled to recover the cost of the **\$50.00** filing fee from the Landlord.

### **Conclusion**

I hereby provide the Tenants with a Monetary Order in the amount of **\$1,350.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: August 26, 2013

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Residential Tenancy Branch

