



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, O, FF

### Introduction

This matter dealt with an application by the Tenants for the return of a double the security and pet deposits, to recover the filing fee and for other considerations.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on August 20, 2013. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance. It should be noted the Landlord was present, but he joined the conference call approximately 10 minutes late.

### Issues(s) to be Decided

1. Are the Tenants entitled to the return of double the security and pet deposits?
2. What other considerations are there?

### Background and Evidence

This tenancy started on September 1, 2012 as a fixed term tenancy with an expiry date of August 31, 2013. The tenancy ended July 31, 2013. Rent was \$1,350.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$675.00 and a pet deposit of \$675.00 and in advance of the tenancy.

The Tenant said at the end of June, 2013, they gave the Landlord written notice they were moving out of the rental unit on July 31, 2013. The Tenant continued to say they moved out of the rental unit on July 31, 2013 and gave the Landlord their forwarding address in writing with the Application package that the Landlord is deemed to have received on August 25, 2013. The Tenant said a move in condition report was completed, but the Landlord refused to do a move out condition report. The Tenant continued to say they requested the return of their deposits, but the Landlord refused to return the deposits as he said there was damage to the rental unit so he was keeping both the deposits.

The Landlord said there was damage to the unit and the unit was left in a very poor condition so he did keep the Tenants security deposit and pet deposit as compensation for the damage and clean up. As well the Landlord said he did not know he was required to do inspection reports and that he had to make an application to retain the Tenants' deposits. The Landlord said he did not make an application to keep the deposits or for any loss or damage the Tenants caused him.

### Analysis

Section 36 (2) on the Act says that if a Landlord does not do a move out inspection as required by the Act then the Landlord's claim against the Tenants' security and/or pet deposits is extinguished.

I find the Landlord's claim against the Tenants' security and pet deposits is extinguished as the Landlord did not complete a move out condition inspection report as required under the Act and regulations.

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 accept the Tenant's testimony that she gave the Landlord a forwarding address in writing on August 25, 2013 in the application package. The Landlord did not repay security or pet deposit to the Tenant within 15 days of the end of the tenancy or 15 days after receiving the Tenants' forwarding address in writing, nor did the Landlord apply for dispute resolution by September 9, 2013. Consequently I find for the Tenants and grant an order for double the security and pet deposits of \$675.00 each in the amount of  $\$1,350.00 \times 2 = \$2,700.00$ .

As the Tenant was successful in this matter I also order the Tenants to recover the filing fee of \$50.00 from the Landlord; pursuant to section 38 & 67 a monetary order for \$2,750.00 has been issued to the Tenants. This Monetary order represents double the security and pet deposits in the amount of \$2,700.00 and the filing fee of \$50.00.

#### Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38 and 67 of the Act, I grant a Monetary Order for \$2,750.00 to the Tenants. 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*.

Dated: November 25, 2013

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Residential Tenancy Branch

