



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, OLC, FF

### Introduction

This matter dealt with an application by the Tenant for the return of a security deposit, for the Landlord to comply with the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 5, 2013. 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 in the Landlord’s absences.

The Tenant said the Landlord did not accept the registered mail package with the Application and Notice of Hearing (the “hearing package”) because the post office returned it to the sender (the Tenant). The Tenant provided a tracking number and post office receipt and he said the address for the Landlord was correct.

### Issues(s) to be Decided

1. Is the Tenant entitled to the return of the security deposit?
2. Has the Landlord complied with the Act?

### Background and Evidence

This tenancy started on July 15, 2012 as a fixed term tenancy with an expiry date of July 31, 2013. The tenancy ended July 31, 2013. Rent was \$1,800.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$900.00 by August 1, 2012.

The Tenant said that he moved out of the rental unit on July 31, 2013 and gave the Landlord a forwarding address in writing on July 31, 2013. The Tenant said no move in or move out condition inspection reports were completed and signed. The Tenant continued to say that they cleaned the unit before leaving and he asked the Landlord for a signed paper confirming this and he requested his security deposit back less \$18.63

for a damaged mirror. The Tenant said the Landlord said there was no need for a paper confirming the unit was cleaned.

The Tenant said he received a cheque for his security deposit for \$596.00 on August 19, 2013 with deductions taken off that he did not agree with.

### 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 accept the Tenant's testimony that he gave the Landlord a forwarding address in writing on July 31, 2013. The Landlord did not repay 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 by August 15, 2013. Consequently I find for the Tenant and grant an order for double the security deposit of \$900.00 in the amount of  $\$900.00 \times 2 = \$1,800.00$ .

The Tenant will receive a monetary order for double the security deposit of \$1,800.00 less the cheque from the Landlord issued on August 19, 2013 of \$596.00 and less the \$18.73 that the Tenant agreed to deduct from the security deposit for a damaged mirror.

As the Tenant was successful in this matter the Tenant is also entitled to recover the \$50.00 filing fee from the Landlord; pursuant to section 67 a monetary order for \$1,235.27 has been issued to the Tenant. This Monetary order represents double the security deposit in the amount of \$1,800.00 less the cheque for \$596.00 and the damaged mirror for \$18.73 plus the filing fee of \$50.00.

### Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$1,235.27 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*.

Dated: December 10, 2013

---

Residential Tenancy Branch