



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and the recovery of the filing fee from the Landlord.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 9, 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?

### Background and Evidence

This tenancy started on June 25, 2012 as a month to month tenancy. The tenancy ended September 1, 2013. Rent was \$850.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$425.00 on June 25, 2013.

The Tenant said that they moved out of the rental unit on September 1, 2013 and gave the Landlord their forwarding address in writing on July 31, 2013 with their written notice that they were ending the tenancy. The Tenant said there was no move in or move out condition inspection reports completed. The Tenant continued to say that they cleaned the unit before leaving and they asked the Landlord for their security deposit back. The Tenant said the Landlord said he was not returning their security deposit.

The Tenant said they are requesting double their security deposit in the amount of \$850.00 as stated in the Act and to recover the filing fee of \$50.00 from the Landlord for this application.

### 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 September 15, 2013. Consequently I find for the Tenant and grant an order for double the security deposit of \$425.00 in the amount of  $\$425.00 \times 2 = \$850.00$ .

As the Tenant was successful in this matter; I also order the Tenants to recover the \$50.00 filing fee from the Landlord. Pursuant to section 67 a monetary order for \$900.00 has been issued to the Tenants. This Monetary order represents double the security deposit in the amount of \$850.00 and the filing fee of \$50.00.

### Conclusion

I find in favour of the Tenant's monetary claim. Pursuant to sections 38, 67 & 72 of the Act, I grant a Monetary Order for \$900.00 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: January 06, 2014

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Residential Tenancy Branch

