



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD; MNDC; FF

### **Introduction**

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

The Tenants gave affirmed testimony at the Hearing.

The Tenants testified that they served the Landlord with the Notice of Hearing documents, in person, on May 16, 2014, at the Landlord's place of business. The Tenants provided documentary evidence to the Residential Tenancy Branch, but stated that they were unable to serve the Landlord with the documents because he was "hard to get a hold of". The Tenants did not have a reason for not mailing the documents to the Landlord. I explained to the Tenants that I could not consider documentary evidence that had not been served on the Landlord and I invited them to provide me with oral testimony with respect to the documentary evidence.

Based on the Tenants' affirmed testimony, I find that the Landlord was served with the Notice of Hearing documents on May 16, 2014. Despite being served with the documents, the Landlord did not sign into the Hearing and the matter proceeded in his absence. The teleconference remained open for 30 minutes.

### **Issues to be Decided**

- Are the Tenants entitled to a monetary award for double the security and pet damage deposits pursuant to the provisions of Section 38 of the Act?

### **Background and Evidence**

The Tenants gave the following testimony:

This tenancy started on September 1, 2013 and ended on April 30, 2014, by mutual agreement. The Tenants paid a security deposit in the amount of \$425.00 and a pet damage deposit in the amount of \$425.00 at the beginning of the tenancy.

There was no move-in condition report completed at the beginning of the tenancy. The parties met for a move-out condition report on April 30, 2014, but the Tenants did not agree with the Landlord's assessment of the rental unit's condition and the Landlord has not provided them with a copy of the report.

On April 30, 2014, the Tenants provided the Landlord with their forwarding address by hand delivering a letter to the Landlord.

The Landlord has not returned the deposits. The Tenants did not give him permission to retain any of the deposits.

### **Analysis**

A security deposit and a pet damage deposit are held in a form of trust by the Landlord for the Tenant, 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 and pet damage deposit in full; or
2. make an application for dispute resolution claiming against the deposits.

I accept the Tenants' undisputed testimony that the Landlord did not return any of the deposits to the Tenants. The Landlord did not file an application for dispute resolution against the deposits.

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 for double the amount of the deposits, in the amount of **\$1,700.00**.

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

**Conclusion**

I hereby grant the Tenants a Monetary Order in the amount of **\$1,700.00** 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: October 15, 2014

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Residential Tenancy Branch

