



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 535413 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for a monetary order for a return of his security deposit, doubled.

The tenant and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, no issues were raised by either party regarding service of the tenant's application or the evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond each to the other, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order, which includes his security deposit?

### Background and Evidence

The tenant submitted that he was given permission to move into the rental unit on June 30, 2014, one day earlier than stated on the written tenancy agreement, and when he arrived, was informed by the landlord that the rental unit would not be ready for 2 weeks. The tenant submitted further the landlord would not agree to hotel

accommodation for his family for 2 weeks, and he had no choice other than to not move into the rental unit.

The tenant submitted further that although he paid a security deposit of \$665 on June 6, 2014, the landlord has refused to return the deposit, despite many phone calls. As a result, the tenant is now seeking double the security deposit.

The tenant confirmed that he had not provided the landlord with a written forwarding address, and that his address was listed in his application.

In response, the landlord submitted that she informed the tenant, when he and his daughter came to look at the rental unit on June 2, 2014, that the rental unit would not be ready until the current tenant moved out on June 30. The landlord submitted that the tenant said he had to move in right away on June 30, and the landlord reaffirmed that that she again informed the tenant she had to clean the rental unit; despite this, the tenant began moving his personal property into the garage at around 12:30 p.m.

The landlord submitted further that on the evening of June 30, 2014, the landlord's son called and said that the tenant did not like the home and they wanted their money returned, even though the tenant had the rental unit keys.

The landlord submitted that she did not believe she should have to return the security deposit as she lost a month's rent, due to the tenant's failure to move into the rental unit.

The landlord's relevant documentary evidence included, but was not limited to, a copy of the written tenancy agreement showing a tenancy start date of July 1, 2014, for a 1 year, fixed term, and monthly rent of \$1330.

### Analysis

Under section 38(1) of the Act, at the end of a tenancy a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the security deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy if the tenant's right to the security deposit have not been extinguished. Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of their security deposit.

In this case, the tenancy ended on June 30, 2014, the day prior to the official start date listed on the tenancy agreement, as the tenant effectively abandoned the rental unit the day before it began. The landlord did not return the security deposit or make an application to keep the deposit. I therefore find that the tenant is entitled to recovery of his security deposit of \$665.

I find that the tenant is not entitled to double recovery of his deposit, as the landlord did not have the tenant's forwarding address in writing and was not able to return the deposit at the time that the tenant made his application.

Due to the above, I find the tenant is entitled to a total monetary award of \$665, comprised of his security deposit.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$665, which I have enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

### Conclusion

The tenant's application is granted in part as I have ordered the landlord to return the tenant his security deposit and have granted the tenant a monetary order for \$665.

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: February 2, 2015

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Residential Tenancy Branch

