



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for a return of her security deposit, doubled, and for recovery of the filing fee paid for this application.

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, the landlord confirmed receiving the tenant's application and both parties confirmed not providing documentary evidence for this hearing.

Thereafter both parties were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all 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 comprised of her security deposit, doubled, and to recovery of the filing fee paid for this application?

### Background and Evidence

Although the tenant stated that there was a written tenancy agreement regarding this tenancy, a copy was not provided. The undisputed evidence showed that this tenancy began on September 1, 2012, ended on August 30, 2014, when the tenant vacated the rental unit, and that the tenant paid a security deposit of \$500.00 at the beginning of the tenancy.

The tenant submitted that she provided her forwarding address to the landlord on a piece of paper on August 30, 2014, at the final inspection of the rental unit. The tenant

submitted further that she sent an email to the landlord on September 14, 2014, inquiring of the status of her security deposit, and on or about September 22, 2014, the landlord replied via email that he had lost her written forwarding address. The tenant submitted that she provided the landlord her forwarding address again, via email, and on or about September 30, 2014, she received a cheque from the landlord in the amount of \$300.00, with an explanation of deductions.

The tenant submitted that she did not deposit the cheque, upon advice from a government agent, and instead, returned the cheque to the landlord.

The tenant submitted further that although there was a move-in and move-out inspection, there was not a condition inspection report prepared by the landlord.

The tenant's monetary claim was \$700.00, but stated she mistakenly believed at the time of her application, she had to deduct the amount received from the landlord.

#### *Landlord's response-*

The landlord submitted that he sent the tenant a cheque for the security deposit after 15 days or so, but did not send it earlier as he had lost the paper containing the written forwarding address. The landlord submitted he had to send an email to the tenant, and did not respond to her email earlier as he was out of the country.

#### Analysis

Under section 38(1) of the Act, a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the deposit within 15 days of the later of receiving the tenant's forwarding address in writing or at the end of a tenancy. 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 her security deposit.

The undisputed evidence of the parties shows that the tenancy ended on August 30, 2014, and the tenant provided her written forwarding address on August 30, 2014 via hand delivery.

I have no evidence before me that the landlord has either filed an application to retain the tenant's security deposit or returned the deposit in full within 15 days of August 30, 2014. I do not find the fact the landlord subsequently lost the written forwarding address of the tenant, if true, is a defense to the tenant's application.

Contrary to the Act, the landlord made a deduction from the tenant's security deposit before returning a portion outside of the required 15 days.

I therefore find the tenant has submitted sufficient evidence to support her claim and I grant the tenant's application for a return of her security deposit, and that the security deposit must be doubled under section 38(6).

Pursuant to section 72(1) of the Act, I also order that the landlord pay the tenant her filing fee for this application in the amount of \$50.00.

Due to the above, I find the tenant is entitled to a total monetary award of \$1050.00, comprised of her security deposit of \$500.00, doubled to \$1000.00, and the filing fee of \$50.00.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of her monetary award of \$1050.00, which is enclosed with the tenant's Decision.

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

### Conclusion

The tenant's application for monetary compensation is granted.

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: May 5, 2015

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Residential Tenancy Branch

