



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1004645 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenants for the return of double their security deposit and to recover the filing fee from the Landlord.

One of the Tenants appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. There was no appearance for the Landlord during the 19 minute duration of the hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Tenants.

The Tenant testified that the Landlord was served with a copy of the Application and the Notice of Hearing documents on November 24, 2014 by registered mail. These documents were sent to the address the Landlord had documented on a notice to end tenancy which had ended this tenancy on October 1, 2015. The Tenant provided the Canada Post tracking number into oral testimony which was noted on the inside of the file. The Canada Post website indicated that the documents were received and signed for on December 8, 2015. Based on the undisputed evidence of the Tenants, I find the Landlord was served with the documents for this hearing pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act").

### Issue(s) to be Decided

Are the Tenants entitled to the return of double their security deposit?

### Background and Evidence

The Tenant testified that this tenancy with the previous landlords began on October 1, 2013 on a month to month basis. Rent in the amount of \$2,000.00 was payable by the Tenants on the first day of each month. The Tenants paid the previous landlords a security deposit in the amount of \$1,000.00 at the end of November 2013.

The Tenant testified that in July 2014, she had a visit from the new Landlord of the property who informed her that the company had bought the rental property and were taking over the tenancy. On July 28, 2014 the Tenant was served with a 2 month notice to end the tenancy for the Landlord's use of the property. The Tenant testified that she accepted the notice which ended her tenancy on October 1, 2014. The Tenants paid August 2014 rent to the new Landlord and did not pay any rent for September 2015 as per the compensation that was payable to them under the notice to end tenancy.

The Tenant provided the notice to end tenancy which shows the new Landlord's company name and address. The Tenant testified that after she vacated the rental unit she provided the new Landlord with her forwarding address on October 20, 2015 by registered mail to the address on the notice to end tenancy. The Tenant provided a copy of the letter dated October 18, 2014 showing the Tenants' forwarding address as well as a copy of the Canada Post tracking number and receipt to verify this method of service.

The Tenant testified that one of Landlord's agents signed for the letter on October 23, 2014 as indicated on the Canada Post tracking report provided into evidence prior to the hearing. The Tenants now claim that as the new Landlord has failed to return their security deposit, they now claim double the amount back from the Landlord in the amount of \$2,000.00.

The Tenants were also seeking to recover their registered mail costs in the amount of \$9.45. The Tenant was informed during the hearing that the Act does not allow costs associated with preparation for dispute resolution to be awarded to any party. Therefore, I did not consider this portion of the Tenants' claim in my analysis below.

### Analysis

Section 38(1) of the Act states that, within 15 days after the latter of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an Application to claim against it.

I accept the undisputed evidence that this tenancy ended on October 1, 2014. I also accept the Tenants' evidence that they provided the new Landlord with a forwarding address in writing using the service address provided by the new Landlord on the notice to end tenancy. I further accept the Tenants' documentary evidence which indicates that their forwarding address was received by the new Landlord on October 23, 2014.

Section 93 of the Act stipulates that the obligations of a landlord under this Act with respect to a security deposit run with the landlord or reversion. Therefore, this means that when the new Landlord took over this tenancy in July 2014, the new Landlord was responsible for dealing with the return of the Tenants' security deposit.

There is no evidence before me that the new Landlord made an Application within 15 days of receiving the Tenants' forwarding address or returned the security deposit back to the Tenants. Therefore, I find that the new Landlord has failed to comply with Section 38(1) of the Act.

Section 38(6) of the Act stipulates 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. Based on the foregoing, I find the Tenants are entitled to double the return of their security deposit in the amount of **\$1,000.00**.

As the Tenants have been successful in this matter, I also award the Tenants the filing fee of **\$50.00** pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Tenants is **\$1,050.00**. The Tenants are issued with a Monetary Order which must be served on the Landlord and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if the new Landlord fails to make payment.

### Conclusion

The Landlord has breached the Act by failing to deal properly with the Tenants' security deposit. Therefore, the Tenants' claim for the return of double their security deposit and recovery of the filing fee is granted in the amount of \$2,050.00

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: July 07, 2015

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Residential Tenancy Branch

