



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Madison Villa Ent. Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

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

Tenant "HI" attended the telephone conference call hearing; the landlord did not attend.

The tenant testified that they served the landlord with the application for dispute resolution and notice of hearing by registered mail on May 11, 2015. The tenant stated that she used the address listed as the service address for the landlord on the written tenancy agreement to serve the registered mail. The tenant submitted further that the registered mail was returned to her, marked "unclaimed".

Based upon the submissions of the tenant, I accept that the landlord was served notice of this hearing and the tenants' application in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, 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

Are the tenants entitled to a monetary order comprised of their security deposit and to recovery of the filing fee paid for this application?

Background and Evidence

The tenant submitted that the tenancy began on June 1, 2014, ended on April 30, 2015, monthly rent was \$880.00, and that the tenants paid a security deposit of \$440.00, as the beginning of the tenancy, which has not been returned to the tenants.

In support of their claim that they are entitled to the return of their security deposit, the tenant submitted that she provided the landlord with their written forwarding address in a letter sent by registered mail on May 1, 2015.

The tenant submitted that the registered mail was sent to the address listed as the landlord's service address on the written tenancy agreement and that the registered mail was returned to them, marked "unclaimed".

Analysis

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

I find the tenant submitted sufficient undisputed evidence to show that the landlord was constructively served with the tenants' written forwarding address by registered mail, whether or not the landlord chose to claim the registered mail.

Under Section 90 of the Act, documents served by registered mail are deemed delivered 5 days later. Thus the landlord was deemed to have received the tenants' written forwarding address by May 6, 2015, and they had until May 21, 2015, to return the tenants' security deposit or file an application claiming against the security deposit.

I have no evidence before me that the landlord has filed an application claiming against the tenants' security deposit and the undisputed evidence was that the security deposit has not been returned.

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 tenants double the amount of their security deposit.

I therefore grant the tenants' application for dispute resolution and, pursuant to section 62(3) of the Act, order that the landlord pay the tenants double their security deposit of \$440.00.

Due to the above, I find the tenants are entitled to a total monetary award of \$950.00, comprised of their security deposit of \$440.00, doubled to \$880.00, and recovery of their filing fee for this application in the amount of \$50.00.

I grant the tenants a final, legally binding monetary order pursuant to section 67 of the Act for the amount of their monetary award of \$930.00, which is enclosed with the tenants' Decision.

Should the landlord fail to pay the tenants 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.

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 16, 2015

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Residential Tenancy Branch

