



# 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 scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested a monetary Order for return of double the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent on September 25, 2015 to the landlord via registered mail to the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service.

The tenant used the rental unit address for service. The landlord had told the tenant at the start of the tenancy he would move into the unit once the tenancy ended. The tenancy agreement had a service address for the landlord's agent. The tenant said she understood that was a rental addresses for the agent and that the agent has since moved.

The tenant served the landlord with the hearing documents within one month of the tenancy ending. The registered mail was returned to the tenant, marked by Canada Post as unclaimed. The mail was not marked as unknown. This leads me to find that the address for the landlord was not incorrect.

Therefore, pursuant to section 71(2)(c) of the Act, I find that the landlord has been sufficiently served with Notice of this hearing. A refusal to claim registered mail does not allow a party to avoid service.

### Issue(s) to be Decided

Is the tenant entitled to return of double the \$550.00 security deposit paid?

### Background and Evidence

The tenancy commenced on October 1, 2014 and ended effective August 31, 2015. The tenant provided a copy of the tenancy agreement.

The tenants' friend attended at the rental unit to complete the move out inspection with the agent. When the agent failed to attend at the scheduled time of the inspection the friend left a note, with her name, address and phone number, so the landlord could pick up the keys to the unit. The agent never contacted the tenants' friend to arrange return of the keys.

The tenant supplied a copy of a "Landlord Contact" sheet setting out the phone number for the landlord's agent, a phone number for the landlord and the landlord's email address.

The tenant has left at least 10 telephone messages for the landlord, requesting return of her security deposit. The tenant has also sent the landlord two emails, using the email address provided on the contact sheet.

On September 12, 2015 the tenant sent an email including her address and requested return of the deposit. The tenant provided her phone number to the landlord.

On September 15, 2015 the tenant emailed the landlord using the email address provided by the landlord, asking the landlord why he had not contacted the tenant regarding return of her deposit.

Copies of both emails were supplied as evidence. The landlord did not respond to either email.

The tenant has not received the deposit.

### Analysis

During the hearing I reviewed service issues with the tenant. I have made my decision based on the Act and the balance of probabilities.

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

I find that the tenant has contacted the landlord, as set out in the "Landlord Contact" information provided by the landlord to the tenant. The tenant had a reasonable expectation that the email address was an appropriate method of contacting the landlord. I find, pursuant to section 71(2)(c) of the Act that the landlord was sufficiently

served with the tenants' forwarding address no later than September 17, 2015, after the September 12, 2015 email was sent to the email address provided by the landlord.

The landlord has been given the tenants' forwarding address and was required to return the deposit no later than 15 days after September 17, 2015. The deposit has not been returned. There was no evidence before me indicating the landlord had made a claim against the deposit.

Therefore, I find pursuant to section 38(6) of the Act that the tenant is entitled to return of double the \$550.00 security deposit paid to the landlord.

As the tenants' application has merit I find that the tenant is entitled to recover the \$100.00 filing fee from the landlord for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the tenant a monetary Order in the sum of \$1,200.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The tenant is entitled to return of double the \$550.00 security deposit.

The tenant is entitled to recover the \$100.00 filing fee cost from the landlord.

This decision is final and binding and 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: April 05, 2016

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Residential Tenancy Branch