



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Confide Enterprises Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This was a hearing with respect to the tenant's application for the return of her security deposit. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend although served with the application and Notice of Hearing by registered mail to the address provided to the tenant as the landlord's place of business at the end of the tenancy. The registered mail was sent on April 26, 2016.

### Issue(s) to be Decided

Is the tenant entitled to a monetary award for the return of her security deposit including double the amount?

### Background and Evidence

The rental unit is an apartment in Vancouver. The tenancy began on August 1, 2011, The monthly rent at the start of the tenancy was \$865.00 and the tenant paid a security deposit of \$432.50 at the start of the tenancy.

The tenant gave the landlord written notice that she would move out of the rental unit by September 1, 2015. She provided the landlord with her forwarding address and requested that the landlord's building manager perform a move-out inspection. Despite the tenant's request no arrangements were made and no inspection took place.

The tenant testified that a month after she moved out she contacted the landlord to enquire about the return of her security deposit. The landlord's representative told her

that the rental unit had not been cleaned and said she did not know anything else about the matter. The tenant said that the rental unit was thoroughly cleaned, but the landlord failed or refused to inspect the unit.

The tenant made an earlier application for dispute resolution seeking the return of her deposit. In a decision dated April 7, 2016 her first application was dismissed with leave to reapply because the tenant failed to submit documentary evidence to support her claim.

### Analysis

Section 38 of the *Residential Tenancy Act* provides that when a tenancy ends, the landlord may only keep a security deposit if the tenant has consented in writing, or the landlord has an order for payment which has not been paid. Otherwise, the landlord must return the deposit, with interest if payable, or make a claim in the form of an Application for Dispute Resolution. Those steps must be taken within fifteen days of the end of the tenancy, or the date the tenant provides a forwarding address in writing, whichever is later. Section 38(6) provides that a landlord who does not comply with this provision may not make a claim against the deposit and must pay the tenants double the amount of the security deposit and pet deposit.

I am satisfied that the tenant provided the landlord with her forwarding address in writing when the notice ending the tenancy was given, and I find that the tenant served the landlord with documents notifying the landlord of this application as required by the *Act*. The landlord's failure to pick up the registered mail does not defeat the deemed service provisions of section 90 the *Residential Tenancy Act* and is not an excuse for failure to attend the hearing.

The tenants' security deposit was not refunded within 15 days as required by section 38(1) of the *Residential Tenancy Act* and the doubling provision of section 38(6) therefore applies. I grant the tenant's application and award her the sum of \$865.00, being double the deposit amount. The tenant is entitled to recover the \$100.00 filing fee for this application for a total claim of \$965.00 and I grant the tenant a monetary order against the landlord in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that Court.

### Conclusion

The tenant's application has been allowed and a monetary order issued in the amount stated.

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 12, 2016

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Residential Tenancy Branch

