



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This was an application by the tenant for a monetary order for the return of his security deposit including double the deposit amount. The hearing was conducted by conference call. The named tenant and the landlord participated in the hearing. The tenant's room-mate, also named in the tenancy agreement, but not on the application for dispute resolution, called in and participated in the hearing. The landlord, who was served with the application and Notice of Hearing by e-mail pursuant to a July 22, 2016 order for substituted service, acknowledged at the hearing that he received the application and Notice of Hearing. I find that he was properly served with the application and Notice of Hearing pursuant to the order.

### Issue(s) to be Decided

Is the tenant entitled to the return of his security deposit including double the amount?

### Background and Evidence

The rental unit is a strata title apartment in Vancouver. The tenancy began on May 1, 2014 for a one year fixed term. Monthly rent was \$2,100.00 payable on first day of each month. The tenant paid a security deposit of \$1,050.00 February 22, 2014. The tenancy was renewed for a further one year term. The tenants moved out of the rental unit on April 30, 2016.

The tenant said that there was a walk-through of the rental unit when he moved in but no condition inspection form was completed. The landlord did not complete a move out inspection and did not provide the tenant with a mailing address at the end of the tenancy. The parties communicated by e-mail during the tenancy.

On May 15, 2016, after the tenancy ended the tenant sent an e-mail message to the landlord; he provided his new mailing address and his room-mate's mailing address. The landlord responded by e-mail on May 26, 2016. He said: "Have you read my email on May 6<sup>th</sup> regarding the damage lists? Unfortunately, Your deposit is even not enough for the repair costs. Hope you guys will treat your new places as your own home!"

In an earlier message the landlord alleged that the tenants damaged a sink grinder, the fireplace, a wood floor, the refrigerator and the carpet and wall. The landlord did not apply for dispute resolution to make a monetary claim for repairs or to claim the tenant's security deposit.

The tenant applied for dispute resolution on July 22, 2016. At the time of his application he was granted an order for substituted service. The order dated July 22, 2016 directed that the landlord be served by sending documents to a specified e-mail address. At the hearing the landlord acknowledged that he received the application, Notice of Hearing and the tenant's documents and evidence.

The landlord did not return the security deposit and he did not file an application for dispute resolution to claim the deposit. He claimed to have suffered damage exceeding the amount of the deposit, but the landlord does not have consent to keep the deposit and has not applied for a monetary award.

### 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 tenants provided the landlord with her forwarding address in writing, and based upon the acknowledgement of the landlord at the hearing I find that the tenants served the landlord with documents notifying the landlord of this application as required by the *Act*.

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 him the sum of \$2,100.00, being double the original deposit amount of \$1,050.00. The tenant did not pay a filing fee and none is awarded. I grant the tenant a monetary order against the landlord in the amount of \$2,100.00. This order may be registered in the Small Claims Court and enforced as an order of that Court.

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: February 15, 2017

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Residential Tenancy Branch