



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0823617 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

<u>Dispute Codes</u>	Landlord:	MNSD
	Tenant:	MNSD

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application was received at the Residential Tenancy Branch on March 23, 2017 (the “Landlord’s Application”). The Landlord applied for an order to retain all or part of the security deposit and/or pet damage deposit in partial satisfaction of the Landlord’s claim, pursuant to the *Act*.

The Tenant’s Application was received at the Residential Tenancy Branch on March 29, 2017 (the “Tenant’s Application”). The Tenant applied for an order that the Landlord to return all or part of the security deposit and/or pet damage deposit, pursuant to the *Act*.

The Tenant attended the hearing at the appointed time and provided affirmed testimony. She was accompanied by C.C., a client service worker. The Landlord did not attend the hearing. Accordingly, the Landlords’ Application is dismissed, without leave to reapply.

The Tenant testified that the Tenant’s Application package was served on the Landlord by registered mail on March 31, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Landlord is deemed to have received the Tenant’s Application package on April 5, 2017.

The Tenant was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Tenant's Application disclosed a file number associated with a previous hearing on March 14, 2017. At that hearing, the arbitrator determined that K.O. had been named incorrectly and amended the application to reflect the correct name of the corporate landlord, as indicated in the tenancy agreement. In this case, having been provided with a copy of the tenancy agreement, I find it appropriate to amend the Tenant's Application to reflect the correct name of the corporate Landlord, pursuant to section 64 of the Act. The file number associated with the March 14, 2017 decision is included on the cover page of this Decision for ease of reference.

### Issue to be Decided

Is the Tenant entitled to an order that the Landlord return all or part of the security deposit and/or pet damage deposit?

### Background and Evidence

The Tenant submitted a copy of the tenancy agreement between the parties into evidence. It confirmed the tenancy began on February 1, 2017. However, the Tenant testified the tenancy ended on or about February 17, 2017, when the Landlord changed the locks of the rental unit. During the brief tenancy, rent in the amount of \$775.00 per month was due. The Tenant testified she paid a security deposit in the amount of \$362.50, not \$387.50 as indicated in the tenancy agreement. A receipt was submitted into evidence in support.

At the previous dispute resolution hearing on March 14, 2017, the arbitrator stated:

*During the hearing, the Tenant provided [the Landlord's agent] with her forwarding address and requested that her security deposit be sent to that address in accordance with section 38 of the Residential Tenancy Act. I find that the Landlord has received the Tenant's forwarding address for the purposes of section 38(1) of the Residential Tenancy Act.*

[Reproduced as written.]

However, the Tenant testified she has yet to receive the security deposit from the Landlord.

As noted above, the Landlord did not attend the hearing to provide testimony or dispute the Tenant's evidence.

### Analysis

Based on all of the above, the unchallenged evidence and testimony, and on a balance of probabilities, I find:

Section 38 of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after the latter of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, I find that the Landlord received the Tenant's forwarding address for the purpose of section 38 of the *Act* on March 14, 2017. Although the Landlord submitted the Landlord's Application on March 23, 2017, nine days later, the Landlord did not attend the hearing. Accordingly, I have considered the Tenant's Application to be unopposed as if the Landlord's Application had never been made. Accordingly, I find the Landlord has not returned the security deposit to the Tenant, and that the Tenant is entitled to receive double the amount of the security deposit, or \$725.00, pursuant to section 38(6) of the *Act*.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$725.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 23, 2017

---

Residential Tenancy Branch