



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This decision pertains to the tenant's application for dispute resolution made on May 14, 2018, under the *Residential Tenancy Act* (the "Act"). The tenant seeks a monetary order for the return of his security.

The tenant and his advocate attended the hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlords did not attend the hearing.

The tenant testified that the Notice of Dispute Resolution Proceeding package was served on the landlords by way of Canada Post registered mail, that it was sent on May 25, 2018, and signed for and received by the landlords on May 28, 2018. The advocate provided a registered mail tracking number confirming this delivery.

Thus, taking into consideration the undisputed oral evidence submitted by the tenant and his advocate, I find that the landlords were served with the Notice of Dispute Resolution Proceeding package in compliance with section 89 (1) (c) of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issue of this application is considered in my decision.

### Issue

Is the tenant entitled to a monetary order for the return of his security deposit?

### Background and Evidence

The tenant and his advocate testified, and confirmed, that the tenancy commenced June 1, 2017 and ended on February 27, 2018. Monthly rent, due on the first of the month, was \$1,200.00. The tenant paid a security deposit in the amount of \$600.00.

On February 14, 2018, the tenant gave the landlords notice that he was ending the tenancy, and requested a return of the security deposit. No forwarding address was included in the letter, which was submitted into evidence.

On the last day of his tenancy and after the conclusion of a move-out inspection, which occurred on February 27, 2018, the tenant provided the landlords with another letter, which included a request for the return of the security deposit, and which included the tenant's forwarding address. That letter was also submitted into evidence.

In a letter dated March 11, 2018, the Landlord (S.M.) outlines various issues as to why they were not going to return the security deposit. The landlord's letter was submitted into evidence.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 38 (1) of the Act requires that within 15 days after the later of the date the tenancy ends, or the date the landlord receives the tenant's forwarding address in writing, the landlord must do one of the following:

- (1) repay any security deposit or pet damage deposit to the tenant, or
- (2) apply for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38 (6) of the Act states that where a landlord fails to comply with section 38 (1), the landlord (a) may not make a claim against the security deposit or any pet damage deposit, and (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

The tenant testified that the landlords received the tenant's forwarding address in writing on February 27, 2018. I find that the landlord received the tenant's forwarding address in writing on February 27, 2018, pursuant to section 38 (1) (b) of the Act, and infer that there was no written agreement between the parties whereby the landlords could retain any or all of the security deposit, as would be permitted under section 38 (4) (a) of the Act. Further, there is no evidence for me to find that the landlords applied for dispute resolution within 15 days of receiving the tenant's forwarding address.

Therefore, taking into consideration the evidence and undisputed testimony presented before me, and applying the law to the facts, I find the tenant has met the onus of proving his case that he is entitled to the return of his security deposit.

I further find that the landlords have not complied with section 38 (1) of the Act and, pursuant to section 38 (6) (b) of the Act, must pay the tenant double the amount of the security deposit for a total of \$1,200.00.

Pursuant to section 67 of the Act, I hereby grant the tenant a monetary order in the amount of \$1,200.00.

### Conclusion

I grant the tenant a monetary order in the amount of \$1,200.00. This order must be served on the landlords and may be filed in, and enforced as an order of, the Provincial Court of British Columbia (Small Claims).

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1 (1) of the Act.

Dated: July 25, 2018

---

Residential Tenancy Branch