



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REMAX CITY REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** MNSD, FF

### **Introduction**

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for a Monetary Order for the return of the security deposit and compensation under Section 38 of the Act for double the deposit amount. The application is inclusive of an application for recovery of the filing fee for this application.

Both parties attended the hearing. The landlord acknowledged service of the application and the hearing documents. The parties acknowledged the exchange of all evidence provided to this matter. The parties were further provided opportunity to present all relevant evidence in testimony. The hearing proceeded on the merits of the tenant's application.

### **Issue(s) to be Decided**

Is the tenant entitled to the return of the security deposit and double its monetary amount? As well, is the tenant entitled to recover their filing fee?

### **Background and Evidence**

The parties each provided an abundance of evidence. However, the undisputed *relevant evidence* of the parties is as follows. The tenancy began March 01, 2016, and since ended. Monthly rent was \$1320.00 payable in advance on the 1st. of every month. At the outset of the tenancy the landlord collected a security deposit of \$660.00 which they retain in trust. The tenancy ended April 30, 2019. At the beginning and at the end of the tenancy the parties conducted a mutual condition inspection of the rental unit and a Condition Inspection Report (CIR) was completed and signed by both parties.

I have benefit of a copy of the CIR with which both parties agree as to its contents. The parties further agree that the CIR contains the tenant's forwarding address at the bottom of page 3. The landlord testified they were provided the forwarding address by the tenant and in turn they (landlord) personally wrote the forwarding address into the CIR on May 01, 2019.

The tenant provided evidence that after vacating the rental unit, they sent the landlord 5 registered mailings each containing a request for the landlord to return the security deposit and including their forwarding address. The tenant testified it was in efforts to avoid this proceeding. The landlord's document evidence and testimony during the hearing is that the owner of the property repeatedly declined to return the deposit because of purported damage of the rental unit by the tenant.

### **Analysis**

*The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).*

On preponderance of the relevant evidence for this matter, I find as follows.

**Section 38(1)** of the Act prescribes that **within 15 days after the later of**

38(1)(a) the date the tenancy ends, and

38(1)(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord **must do one of the following:**

38(1)(c) **repay**, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

or,

38(1)(d) **file an application** for dispute resolution to make a claim against the security deposit or pet damage deposit.

I find that on May 01, 2019 the tenant (1) provided their forwarding address to the landlord, and that (2) the landlord received it and wrote it into the CIR. Having effectively received the tenant's forwarding address in writing on May 01, 2019 I find the

landlord failed to repay the security deposit, or to make an application for dispute resolution within the following 15 days and is therefore liable under **Section 38(6)**, which provides:

**38(6)** If a landlord does not comply with subsection (1), the landlord

38(6)(a) may not make a claim against the security deposit or any pet damage deposit, and

38(6)(b) **must pay the tenant double the amount of the security deposit**, pet damage deposit, or both, as applicable.

The landlord currently holds the original security deposit of \$660.00, which is the amount doubled in this matter. As a result, I find the tenant has established an entitlement claim for \$1320.00; and, as they have been successful in their claim is further entitled to recovery of the \$100.00 filing fee, for a total entitlement of **\$1420.00**.

**I grant** the tenant a Monetary Order under Section 67 of the Act for the sum of **\$1420.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

### **Conclusion**

The tenant's application is granted in the above terms.

**This Decision is final and binding.**

*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: November 18, 2019

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Residential Tenancy Branch