



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **MNSD, MNDCT**

### Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for the landlord to return the security deposit pursuant to section 38;
- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;

The tenant attended and was given a full opportunity to be heard, to present affirmed testimony, make submissions, and call witnesses. I explained the hearing process and provided the tenant with an opportunity to ask questions.

The tenant testified SW was the only landlord and requested withdrawal of the second named landlord. The application was granted and the proceedings amended.

I explained to the tenant that no recording of the arbitration was permitted.

The tenant confirmed his mailing address for delivery of the Decision.

### *Service of Documents*

The tenant provided affirmed testimony that they served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail on February 15, 2022 to the landlord's residence.

The tenant testified that the unit was the basement suite in a building in which the landlord lived upstairs. Therefore, he knew the landlord's residential address.

The tenant provided the Canada Post Tracking Number in support of service by registered mail as well as a copy of the mailing receipt.

Considering the tenant's testimony and supporting evidence, I find the tenant served the landlord as required by the Act with the above-mentioned documents.

### *Dismissal of Claim*

The tenant explained that he was also requesting a Monetary Order for \$30,000.00 for "slander" as the landlord made false statements about the tenant's marriage.

I reviewed section 67 with the tenant and explained that the RTB does not have authority to award damages for slander.

Accordingly, the tenant withdrew the claim which is dismissed without leave to reapply.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for the return of the security deposit?

Background and Evidence

The tenant provided uncontradicted evidence as the landlord did not attend the hearing.

The tenant testified that the parties entered into a fixed term tenancy agreement beginning on December 1, 2020 which ended on December 19, 2020.. Rent was \$500.00 monthly payable on the first of the month. The tenant submitted a copy of the tenancy agreement. There are no arrears of rent.

At the beginning of the tenancy, the tenant provided a security deposit in the amount of \$250.00. The tenant did not provide authorization to the landlord to retain any of the security deposit. The tenant did not submit a copy of the receipt for the security deposit as the landlord refused to issue receipts for the deposit or rent.

The tenant testified they personally handed the landlord their forwarding address on December 12, 2021.

The tenant testified that the parties did not carry out a condition inspection on moving in and moving out.

The tenant stated that the landlord has not brought an application to keep any of the deposit.

The tenant requested a monetary award of double the deposit for the landlord's failure to return the deposit within 15 days of the provision of the forwarding address.

### Analysis

Section 38 of the Act requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy or upon receipt of the tenant's forwarding address in writing.

If that does not occur, the landlord must pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value the deposit. However, this provision does not apply if the landlord has obtained the tenant's written permission to keep all or a portion of the security deposit pursuant to section 38(4)(a).

I find that at no time has the landlord brought an application for dispute resolution claiming against the deposit for any damage to the rental unit pursuant to section 38(1)(d) of the Act. I find the tenant provided a deposit of \$250.00.

I accept the tenant's uncontradicted evidence they have not waived their right to obtain a payment pursuant to section 38 of the Act. I accept the tenant's credible testimony supported by documentary evidence and find the tenant personally served the landlord with the forwarding address as testified.

Under these circumstances and in accordance with sections 38(6) and 72 of the Act, I find that the tenant is entitled to a monetary award of double the security deposit as well as reimbursement of the filing fee, for a total monetary order of **\$500.00.**

A summary of the calculation of the award follows:

ITEM	AMOUNT
Deposit	\$250.00
Doubling of security deposit - section 38(6)	\$250.00
<b>Monetary Award</b>	<b>\$500.00</b>

### Conclusion

I grant the tenant a Monetary Order pursuant to section 38 in the amount of **\$500.00**.

This Monetary Order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Courts of the Province of British Columbia to be 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: September 20, 2022

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Residential Tenancy Branch