



Dispute Resolution Services

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.

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

The tenant confirmed their email address for delivery of the Decision.

Service of Documents

As the landlord did not attend the hearing, the tenant provided evidence to establish service of the Notice of Hearing and Application for Dispute Resolution.



Dispute Resolution Services

Residential Tenancy Branch
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The tenant provided affirmed testimony that they served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on March 5, 2022 to the landlord's residence as stated by the landlord in the tenancy agreement signed by the landlord, a copy of which the tenant submitted.

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 credible testimony and supporting evidence, I find the tenant served the landlord as required by the Act with the above-mentioned documents 5 days after service, on March 10, 2022.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for the return of the security deposit and reimbursement of the filing fee?

Background and Evidence

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

The tenant testified that the parties entered into a tenancy agreement beginning on July 25, 2021 which ended on December 1, 2021. Rent was \$3,000.00 monthly payable on the first of the month. The tenant submitted a copy of the tenancy agreement which copy is signed by the landlord only. The tenant explained that both parties had signed the agreement, but they were unable to locate a copy signed by both parties for the hearing.



Dispute Resolution Services

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At the beginning of the tenancy, the tenant provided a security deposit in the amount of \$1,750.00. The submitted copy of the tenancy agreement required the tenant to pay a security deposit in this amount. The tenant requested the return of the security deposit at the end of the tenancy and the landlord refused, claiming damage to the unit.

The tenant did not provide authorization to the landlord to retain any of the security deposit.

The tenant testified they sent their forwarding address to the landlord on December 20, 2021. The tenant submitted a copy of the receipt and tracking number along with a tracking report containing the landlord's signature on collection. The tenant submitted a copy of the letter setting out the forwarding address.

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



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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 \$1,750.00 as required under the agreement.

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 **\$3,600.00**.

A summary of the calculation of the award follows:

ITEM	AMOUNT
Deposit	\$1,750.00



Dispute Resolution Services

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Doubling of security deposit - section 38(6)	\$1,750.00
Reimbursement of filing fee	\$100.00
Monetary Award	\$3,600.00

Conclusion

I grant the tenant a Monetary Order pursuant to section 38 in the amount of **\$3,600.00**.

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: October 17, 2022

Residential Tenancy Branch