



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This matter dealt with an application by the Tenant for the return of a security deposit and pet damage deposit plus compensation equal to the amount of those deposits due to the Landlord's alleged failure to return them as required by the Act as well as to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with her Application and Notice of Hearing (the "hearing package") by registered mail on February 8, 2011. According to the Canada Post online tracking system, the Landlord received the hearing package on February 16, 2011. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

### Issue(s) to be Decided

1. Is the Tenant entitled to the return of her security deposit and pet damage deposit and if so, how much?

### Background and Evidence

This tenancy started on December 1, 2007 and ended on December 31, 2010 when the Tenant moved out. Rent was \$1,404.00 per month. The Tenant paid a security deposit of \$675.00 and a pet deposit of \$337.50 on November 17, 2007.

The Tenant said she completed a move in condition inspection report with the Landlord at the beginning of the tenancy. The Tenant said she gave the Landlord her forwarding address in writing at the beginning of January 2011 during a move out inspection. The Tenant said that the Landlord was supposed to arrange a subsequent time to complete a move out condition inspection report (once she got a carpet cleaning quote) but never did. The Tenant said she did not give the Landlord written authorization to keep her security deposit and pet damage deposit and the Landlord has not returned them to her.

### Analysis

Section 38(1) of the Act says that a Landlord has 15 days from either the end of the tenancy or the date she receives the Tenant's forwarding address in writing (whichever is later) to either return the Tenant's security deposit and pet damage deposit or to make an application for dispute resolution to make a claim against them. If the Landlord does not do either one of these things and does not have the Tenant's written authorization to keep the security deposit or pet damage deposit then pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit and pet damage deposit.

Sections 24(2) and 36(2) of the Act say that if a Landlord does not complete a move in or a move out condition inspection report in accordance with the Regulations, the Landlord's right to make a claim against the security deposit and pet damage deposit for damages to the rental unit is extinguished. In other words, the Landlord may still bring an application for compensation for damages however she may not offset those damages from the security deposit or pet damage deposit.

I find that the tenancy ended on December 31, 2010 and that the Landlord received the Tenant's forwarding address in writing no later than January 10, 2011 but did not return her security deposit of \$675.00 and pet damage deposit of \$337.50. I also find that the Landlord did not have the Tenant's written authorization to keep the security deposit or pet damage deposit and did not make an application for dispute resolution to make a claim against the deposits (although her right to do so was extinguished under s. 36(2) of the Act because she did not complete a move out condition inspection report). As a result, I find that pursuant to s. 38(6) of the Act, the Landlord must return double the amount of the security deposit (\$1,350.00) and pet damage deposit (\$675.00) to the Tenant with accrued interest of \$17.09 (on the original amounts). As the Tenant has been successful in this matter, I also find that she is entitled pursuant to s. 72(1) of the Act to recover the \$50.00 filing fee she paid for this proceeding.

### Conclusion

A Monetary Order in the amount of **\$2,092.09** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and 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: June 01, 2011.

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Residential Tenancy Branch