



# 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 Tenants for the return of double the security deposit and the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on April 20, 2019. 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 with both the Landlord and the Tenant in attendance.

### Issues(s) to be Decided

1. Are the Tenants entitled to the return of double the security deposit?

### Background and Evidence

This tenancy started on October 1, 2017 as a fixed term tenancy for 12 months and then renewed on a month to month basis. Rent was \$3,000.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$1,500.00 at the start of the tenancy and a second tenant paid a security deposit of \$1,500.00 at the start of the tenancy. The second tenant’s security deposit of \$1,500.00 was returned at the end of the tenancy. The Tenant said the Landlord returned \$750.00 of their security deposit on or about April 15, 2019. Both the Tenant and the Landlord said there were no formal condition inspection reports completed and signed for this tenancy.

The Tenant continued to say they gave notice that they were moving out of the rental unit on February 25, 2019 by text message to the Landlord. Further the Tenant said her husband and the Landlord did a walk through, but no move out condition inspection report was completed and signed. Further the Tenant said her husband text messaged the Landlord on April 11, 2019 with their forwarding address.

The Landlord said he did not receive the text with the forwarding address and he checked his phone and said he has no text messages from the Tenants after March 31, 2019.

The Tenant said the Landlord stopped communicating with them at the end of the tenancy and they did not get a confirmation that the Landlord received their forwarding address.

The Landlord said that the rental unit was in new condition at the start of the tenancy and he has photographs which he could send in. The Landlord said he did not think a move in condition inspection report was required.

The Tenant said the Landlord said he was going to return their full security deposit and then he changed his mind and sent \$750.00 by e-transfer to the Tenants.

The Landlord said he found damages in the rental unit that he believes were caused by the Tenants' pet. The Landlord said he retained \$750.00 of the Tenants' security deposit to cover the cost of repairs for these damages.

### Analysis

Section 24 of the Act says: (2) The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord

(a) does not comply with section 23 (3) [2 opportunities for inspection],

(b) having complied with section 23 (3), does not participate on either occasion, or

**(c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.**

I find the Landlord's claim against the Tenants' security deposit is extinguished due to the Landlord not completing a move in condition inspection report as required by the Act and regulations.

Section 38 (1) says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

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

the landlord must do one of the following:

(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;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

The Tenant said her husband gave the Landlord a text message with the forwarding address, but they did not formally give the Landlord their forwarding address in writing. As well, the Tenant said the Landlord did not confirm receiving the text message with the forwarding address. The Landlord said he did not receive the text message with the Tenants' forwarding address. Consequently, I find the Landlord has established grounds that he did not receive the Tenants, forwarding address in writing. I deem the Landlord to have received the Tenants' forwarding address as of today's hearing, July 23, 2019. The Landlord has 15 days from today to return the balance of the Tenants' security deposit in the amount of \$750.00.

As the Tenant was successful in this matter, I further order the Tenant to recover the filing fee of \$100.00 from the Landlord. Pursuant to section 38, 67 and 72 a monetary order for \$850.00 has be issued to the Tenants.

Conclusion

I find in favour of the Tenants' monetary claim. Pursuant to sections 38, 67 and 72 of the Act, I grant a Monetary Order for \$850.00 to the Tenants. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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: July 23, 2019

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Residential Tenancy Branch