



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RE/MAX Kelowna Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF, MNR, MNSD

### Introduction

This is a request for a monetary order for \$787.50 and a request to retain the security deposit towards the claim. The applicant is also requesting recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Has the applicant established a monetary order for outstanding rent totaling \$787.50?

## Background and Evidence

The applicant testified that:

- This tenancy began on July 15, 2012 with the monthly rent of \$1575.00.
- Rent was prorated for the month of July 2012 at \$787.50.
- The tenant authorized rent payments to be paid directly from her account; however they neglected to withdraw the prorated July rent of \$787.50.
- It was not until the end of the tenancy that they noticed that this prorated rent had never been withdrawn, and therefore they requested the tenant's permission to retain the security deposit to cover this amount.
- The tenant refused to give her permission to keep the security deposit and therefore they filed this claim.
- They are requesting an order allowing them to keep the full security deposit to cover the amount claimed, and are also requesting recovery of their filing fee since the tenant would not give her permission for them to keep the security deposit.

The respondent testified that:

- She has reviewed her bank records, and she agrees that the July 2012 prorated rent was never withdrawn from her account; however it was the landlord's error and not hers.
- Further, she did not agree to the landlord keeping the security deposit, because the landlord was claiming that she had only paid a security deposit and not a pet deposit, even though the tenancy agreement clearly shows that she paid both.
- The security deposit was paid on July 4, 2012 when the tenancy agreement was signed, and then she paid the pet deposit on the date she moved in, which he believes is July 16, 2012.

- When she originally signed the agreement on July 4, 2012 she was given a copy of the agreement that clearly shows at that time the pet deposit had not been paid.
- When she moved into the rental unit she was given a new copy of the tenancy agreement and on that agreement the landlord filled in the amount she paid for her pet deposit.
- She does not recall how she paid the pet deposit but believes it was cash.
- She has not been able to find a receipt for the pet deposit, although she assumed she would've got one.

In response to the respondent's testimony the applicants testified that:

- The reason the tenant does not have a receipt, is because she never paid the pet deposit.
- The original tenancy agreement does show that no pet deposit had been paid, however when the tenant moved into the rental unit on July 15, 2013, the tenant stated that she would come in and pay the pet deposit on July 16, 2013, and therefore that is why July 16, 2013 was put on the tenancy agreement.
- The tenant did come into the office on July 16, 2013, however she did not pay the pet deposit, she only paid the \$100.00 move in fee.
- They have provided the payment ledger for this tenant in their evidence package and it clearly shows the pet deposit was not paid.
- You can also see on the move in inspection report, that the tenant moved in on July 15, 2012 as it is dated right beside her signature.

### Analysis

It's my finding that the landlord has shown that prorated rent in the amount of \$787.50 is still outstanding for July 2012, and therefore I allow the claim for that outstanding rent.

It is also my finding that the tenant has not met the burden of proving that she paid both a security deposit and a pet deposit.

The tenant was given the second copy of the residential tenancy agreement when she moved into the rental unit, and it is my finding that the date she moved in and was July 15, 2012, as that is the date that the move in inspection was signed. Further even on the tenant's evidence package she has written on the top of the second copy of the residential tenancy agreement "booklet they gave me when I moved in on July 15, 2012".

I therefore accept the landlords claim that July 16, 2012 was put down in the slot for the pet deposit because the tenant was intending to pay the deposit on July 16, 2012.

There is no evidence to show that the tenant ever made the July 16, 2012 pet deposit payment.

Therefore it's my finding that the total amount of deposit held by the landlords is only \$787.50.

It's my decision however that I will not allow the landlords claim for the filing fee, because the tenant may not have disputed the request to retain their security deposit had she known that she had only paid a security deposit and not a pet posit. The landlords had confused the matter by writing on the moveout inspection report that the amount due to the tenant was \$1575.00, rather than the actual \$787.50 that they held.

Conclusion

I have allowed \$787.80 of the landlords claim and I therefore order that the landlords may retain the full security deposit in satisfaction of that claim.

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 14, 2013

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Residential Tenancy Branch

