



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This matter was set for hearing by telephone conference call at 1:00 p.m., in response to a Landlord's Application for Dispute Resolution (the "Application") for a Monetary Order for damage to the rental unit, unpaid rent, to retain the Tenants' security deposit, and to recover the filing fee.

The line was left open for ten minutes to allow the Applicant to dial into the hearing. However, the only participants calling into the hearing during this time were both Respondent Tenants.

The Tenants provided affirmed testimony that this tenancy had ended in the middle of October 2014 and that in December 2014 each Tenant provided the Landlord with a forwarding address. The Tenants confirmed service of the Landlord's Application which was served personally to each of them at their respective forwarding address within 15 days of them providing it to the Landlord. These addresses were also documented on the Notice of Hearing documents.

I noted that the Landlord had not provided any documentary evidence that was before me prior to this hearing. The Tenants explained that they disputed the Landlord's monetary claim and wanted their security deposit back.

### Analysis & Conclusion

Rule 10.1 of the Dispute Resolution Proceedings Rules of Procedure states that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the Application, with or without leave to re-apply.

As the Landlord served the required documents for this hearing in accordance with Section 89(1) (a) of the *Residential Tenancy Act* and then failed to appear for the

scheduled hearing, and the Respondents appeared and were ready to proceed, I dismiss the Landlord's Application **without** leave to reapply.

As the Landlord is barred from re-applying, the Landlord is ordered to return the Tenants' security deposit back to either party pursuant to Section 38(8) of the *Residential Tenancy Act*. If the Landlord fails to do so, the Tenants may enforce this order using the attached Monetary Order which accompanies the Tenants' copy of this Decision. This order may be enforced through the Small Claims Court of British Columbia 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 18, 2015

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Residential Tenancy Branch

