



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            DRI   MNSD   FF

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on May 12, 2017 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order relating to a disputed rent increase imposed during the tenancy;
- an order that the Landlord return all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Tenant attended the hearing on her own behalf, as did the Landlord. Both parties provided a solemn affirmation at the beginning of the hearing.

The Tenant testified the Application package was served on the Landlord by registered mail in May 2017. The Landlord acknowledged receipt. Further, the Landlord testified he served the Tenant with a documentary evidence package by registered mail. The Tenant acknowledged receipt. No issues were raised with respect to service or receipt of the above documents. Pursuant to section 71 of the *Act*, I find the parties were sufficiently served with the above documents for the purposes of the *Act*.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Tenant entitled to an order relating to a disputed rent increase imposed during the tenancy?
2. Is the Tenant entitled to an order that the Landlord return all or part of the security deposit or pet damage deposit?
3. Is the Tenant entitled to an order granting recovery of the filing fee?

### Background and Evidence

The parties confirmed the tenancy began on May 1, 2014, and ended when the Tenant vacated the rental unit on or about May 31, 2016. The parties acknowledged rent was \$850.00 per month from May 1, 2014 to June 30, 2015, and increased to \$875.00 from July 1, 2015 to May 31, 2016. The Tenant paid a security deposit of \$425.00 at the beginning of the tenancy, which the Landlord holds.

The Tenant testified the Landlord increased rent effective July 1, 2015, contrary to the *Act*. The parties confirmed the Landlord gave the Tenant notice of a rent increase via email dated March 29, 2015. A copy of the email was submitted with the Landlord's documentary evidence. Effective July 1, 2015, rent increased from \$850.00 per month to \$875.00 per month. The Tenant paid this amount for the remainder of the tenancy, until May 31, 2016, a period of 11 months.

The Tenant also testified that she provided the Landlord with her forwarding address in writing in an email dated May 8, 2017. The address provided was the Tenant's work address where she is a "partner" and receives much of her personal mail. A copy of the email was submitted with the Landlord's documentary evidence. The Landlord acknowledged receipt of the Tenant's forwarding address as alleged but suggested he had no obligation to send the security deposit to the Tenant's work address. As a result, the Landlord has not returned the security deposit to the Tenant.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Rent increases are provided for in the *Act*. Section 41 of the *Act* stipulates that a landlord may not increase rent except in accordance with the *Act*. Section 42(3) of the *Act* states that a notice of rent increase must be in the approved form. In this case, it was not disputed that the Landlord sent notice of the rent increase to the Tenant via email. Accordingly, the rent increase imposed by the Landlord is invalid. I find the Tenant is entitled to recover the overpayment of rent from July 1, 2015 to May 31, 2016, or \$275.00 (\$25.00/month x 11 months).

Further, section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit. In this case, the parties confirmed the Tenant's forwarding address was provided to the Landlord by email on May 8, 2017. Accordingly, the Landlord had until May 23, 2017, to either repay the security deposit to the Tenant or make a claim against it by filing an application for dispute resolution. He did neither. Accordingly, I find the Tenant is entitled to recover double the amount of the security deposit, or \$850.00, pursuant to section 38(6) of the *Act*.

Having been successful, I also find the Tenant is entitled to recover the filing fee paid to make the Application. Pursuant to section 67 of the *Act*, I grant the Tenant a monetary order in the amount of \$1,225.00, which is comprised of \$275.00 for an overpayment of rent, \$850.00 for the Landlord's failure to deal with the security deposit in accordance with section 38 of the *Act*, and \$100.00 in recovery of the filing fee paid to make the Application.

#### Conclusion

I grant the Tenant a monetary order in the amount of \$1,225.00. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 23, 2017

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Residential Tenancy Branch