



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

**File No: 11034934**

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between

**SCOTT DOWNES, Landlord,**

Applicant

And

**ARRON HARRISON-KRUSKY and LAKOTA HARRISON-KRUSKY, Tenants,**

Respondents

Regarding a rental unit at: 47 MALLARD ST, KITIMAT, BC

Date of Hearing: May 7, 2019, by conference call.

Date of Decision: May 7, 2019

Attending:

For the Landlord: No one attending

For the Tenants: Lakota Harrison-Krusky, Tenant  
Matthew Potomak, Legal Counsel



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## DECISION

Dispute Codes      MND MNSD FF

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 6, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- an order that the Landlord be permitted to apply the security deposit held to any monetary award granted; and
- an order granting recovery of the filing fee.

This matter was set for hearing by telephone conference call at 1:30 P.M. on May 7, 2019. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Tenant L.H.-K., who was accompanied by M.P., legal counsel. Therefore, as the Landlord did not attend the hearing by 1:40 P.M, and the Tenant L.H.-K. and her legal counsel appeared and were ready to proceed, I dismiss the Landlord's claim without leave to reapply.

During the hearing, and in light of the outcome, M.P. submitted that the Tenants are entitled to the return of the security and pet damage deposits. A copy of the tenancy agreement submitted into evidence confirms the Tenants paid a security deposit of \$500.00 and a pet damage deposit of \$250.00, which was confirmed by L.H.-K.

Residential Tenancy Branch Policy Guideline #17 requires an arbitrator to order the return of a security deposit, or any balance remaining, less any deductions permitted under the *Act*, on a landlord's application to retain all or part of the security deposit, unless the tenant's right to the return of the deposit has been extinguished under the *Act*. In this case, the Landlord applied to retain the deposits held in partial satisfaction of his claim. However, he did not attend the hearing to provide testimony with respect to whether or not the Tenants' right to the return of the deposits has been extinguished. Therefore, in accordance with Policy Guideline #17, I grant the Tenants a monetary order in the amount of \$750.00, which is the amount of the security and pet damage deposits held by the Landlord.

### Conclusion

The Landlord's Application is dismissed, without leave to reapply.

In accordance with Policy Guideline #17, the Tenants are granted a monetary order in the amount of \$750.00. 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: May 7, 2019

  
\_\_\_\_\_  
C. Wilson Arbitrator  
Residential Tenancy Branch



# Residential Tenancy Branch

RTB-136

## Now that you have your decision...

**All decisions are binding and both landlord and tenant are required to comply.**

The RTB website ([www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)) has information about:

- How and when to enforce an order of possession:  
Visit: [www.gov.bc.ca/landlordtenant/orders](http://www.gov.bc.ca/landlordtenant/orders)
- How and when to enforce a monetary order:  
Visit: [www.gov.bc.ca/landlordtenant/orders](http://www.gov.bc.ca/landlordtenant/orders)
- How and when to have a decision or order corrected:  
Visit: [www.gov.bc.ca/landlordtenant/review](http://www.gov.bc.ca/landlordtenant/review) to learn about the correction process
- How and when to have a decision or order clarified:  
Visit: [www.gov.bc.ca/landlordtenant/review](http://www.gov.bc.ca/landlordtenant/review) to learn about the clarification process
- How and when to apply for the review of a decision:  
Visit: [www.gov.bc.ca/landlordtenant/review](http://www.gov.bc.ca/landlordtenant/review) to learn about the review process  
**Please Note: Legislated deadlines apply**

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

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**Residential Tenancy Branch**

#RTB-136 (2014/12)

