



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary order in the amount of \$1,680.00 for damage to the unit, site or property, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, to retain the tenants' security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

The landlord, the tenants and a support person for the tenants attended the teleconference hearing. The parties were affirmed and the hearing process was explained to the parties. The parties were also provided an opportunity to ask questions.

### Preliminary and Procedural Matters

Firstly, as the surname of tenant DJ was spelled incorrectly, I amend tenant DJ's surname to the correct spelling pursuant to section 64(3) of the *Act*.

Secondly, at the outset of the hearing, the support person for the tenant stated that the tenants were not served with the Monetary Order Worksheet ("MOW") or other document that provided the breakdown of the monetary claim submitted to the RTB, which indicated the amount of \$2,075.00. The landlord stated that the amount of \$2,075.00 had \$425.00 deducted from it, which would total \$1,650.00 and still did not match the \$1,680.00 listed on the application. As a result, the landlord was asked if the MOW was served on the tenants. The landlord testified that it was service twice, both by registered mail. The landlord was unable to provide registered mail tracking numbers during the hearing to support their testimony.

Based on the above, and taking into account that the landlord was unable to provide registered mail tracking numbers to support that the tenants were served by registered mail, **I am not satisfied** that the tenants were sufficiently served with the Notice of Hearing, application and documentary evidence under the *Act*.

Both parties have a right to a fair hearing and the tenants would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing and application. Therefore, **I dismiss** the landlord's application **with leave to reapply** due to a service issue. I note this decision does not extend any applicable time limits under the *Act*.

I do not grant the filing fee as a result.

Thirdly, the parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party.

And finally, the parties were satisfied that the landlord was applying towards their security deposit of \$975.00 and their pet damage deposit of \$625.00. As a result, the parties were advised that I would deal with both deposits in my decision as the landlord had claimed against both deposits and due to a service issue, the landlord's application was being dismissed with leave to reapply.

The parties agreed that the landlord received an email from the tenants with their forwarding address on February 26, 2019. The landlord applied against the deposits on the same date, February 26, 2019. Given the above service issues, I order the landlord to return the tenant's combined deposits which total \$1,600.00, to be postmarked no later than **June 28, 2019** pursuant to section 62(3) of the *Act*. Should the landlord fail to comply with my order, I grant the tenants a monetary order pursuant to section 67 of the *Act*, in the amount of **\$1,600.00**.

### Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*.

I do not grant the filing fee due to the service issue.

As the landlord applied within 15 days towards the combined deposits in accordance with section 38 of the *Act*, I order the landlord to return the tenant's combined deposits which total \$1,600.00, to be postmarked no later than June 28, 2019. Should the landlord fail to comply with my order, I grant the tenants a monetary order pursuant to section 67 of the *Act*, in the amount of \$1,600.00. Should the tenants require enforcement of the monetary order, the tenants must first serve the landlord with the monetary order. This order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that court.

The decision will be emailed to both parties. The monetary order will be emailed to the tenants only, for service on the landlord, if necessary.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: June 14, 2019

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Residential Tenancy Branch