



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WEST FRASER HOLDINGS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

MNSD, FFT

### Introduction

On July 16, 2019, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The Tenants and Landlord appeared at the hearing. The hearing process was explained, and the Tenant and Landlord were asked if they had any questions. The Tenant and Landlord provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and 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

- Are the Tenants entitled to the return of the security deposit and pet damage deposit?
- Are the Tenants entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord and Tenant testified that the tenancy began on June 8, 2018, as a one year fixed term tenancy. Rent in the amount of \$1,650.00 was due by the first day of each month. The Tenants paid the Landlord a security deposit of \$825.00 and a pet damage deposit of \$825.00. The parties testified that the tenancy ended on May 31, 2019.

The Tenant testified that the Landlords did not return the full security deposit and pet damage deposit to them after the tenancy ended. The Tenant testified that the Landlord returned the amount of \$1,400.00 on June 12, 2019.

The Tenant testified that there was no agreement that the Landlords could retain any amount of the security deposit or pet damage deposit.

The Tenant testified that the Tenants provided the Landlord with their forwarding address in writing on May 25, 2019. The Tenant provided documentary evidence of an email sent to the Landlord providing the Tenants forwarding address.

In reply, the Landlord testified that the rental unit was new at the start of the tenancy and that the Tenant is responsible for damage to flooring. The Landlord withheld \$250.00 due to damage. The Landlord did not have an agreement in writing that permitted the Landlord to withhold \$250.00.

The Landlord testified that they returned the amount of \$1,400.00 to the Tenants.

### Analysis

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

Section 38 (1) of the Act states that within 15 days after the later of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must repay any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(4) of the Act provides that a Landlord may retain an amount from a security deposit or a pet damage deposit if at the end of a tenancy, the Tenant agrees in writing the Landlord may retain the amount to pay a liability or obligation of the Tenant.

Section 38 (6) of the Act provides that if a Landlord does not comply with subsection (1), the Landlord must pay the Tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that the Tenants provided their forwarding address to the Landlords on May 25, 2019. There is no evidence before me that the Landlords applied for dispute resolution within 15 days of receiving the Tenants' forwarding address. I find that there was no written agreement from the Tenants that the Landlords could retain \$250.00 from the security deposit or pet damage deposit.

I find that the Landlord's breached section 38 of the Act. Pursuant to section 38(6) of the Act, the Landlords must pay the Tenants double the amount of the security deposit and pet damage deposit.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenants' paid to make application for dispute resolution.

I order the Landlord to pay the Tenants the amount of \$3,400.00 which is double the amount of the security deposit and pet damage deposit, and the cost of the filing fee.. After setting off the amount of \$1,400.00 that was returned to the Tenants on June 14, 2019, I grant the Tenants a monetary order for the balance of \$2,000.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

### Conclusion

The Landlord failed to return or make a claim against the security deposit and pet damage deposit in accordance with the legislation.

The Tenants are granted double the amount of the security deposit and pet damage deposit. After setting off the amount of \$1,400.00 returned by the Landlord, I grant the Tenants a monetary order in the amount of \$2,000.00.

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 29, 2019

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Residential Tenancy Branch