



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Gur Kartar Holding Ltd. and [tenant  
name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNSD

### **Introduction**

In this dispute, the tenant sought the return, and doubling, of her security deposit, in addition to the return of a garage key deposit, pursuant to sections 38 and 67 of the *Residential Tenancy Act* (the “Act”).

The tenant applied for dispute resolution on October 15, 2019 and a dispute resolution hearing was held on March 6, 2020. The tenant and a witness attended the hearing, and they were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The landlord did not attend the hearing, though they had submitted various documentary evidence in late January 2020.

While I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred by the applicant, I have only considered evidence relevant to the issues of this application. As a party to a dispute is required under Rule 7.4 of the *Rules of Procedure* to present any evidence that they want to be considered, I have not reviewed or considered any evidence from, or written submissions of, the landlord.

### **Issues**

1. Is the tenant entitled to the return of her security deposit?
2. If yes, is the tenant also entitled to a doubling of the security deposit amount?
3. Is the tenant entitled to the return of the key deposits?

### Background and Evidence

The tenancy began on September 1, 2017 and ended (by way of an order of possession issued by an arbitrator on September 9, 2019) on September 30, 2019. Monthly rent was \$1,000.00 and the tenant paid a security deposit of \$500.00. In addition, the tenant paid two cash deposits of \$60.00 each for a set of garage keys. A copy of the written tenancy agreement was submitted into evidence by the tenant.

Also submitted into evidence by the tenant was a copy of a Residential Tenancy Branch decision (dated September 9, 2019) in which the arbitrator authorizes the landlord to retain \$100.00 of the security deposit. There is also a monetary order worksheet submitted into evidence, which indicates the amounts claimed.

The tenant and a friend (the witness in this hearing) vacated the rental unit on September 30, 2019, and handed her forwarding address, along with both keys, to the building manager in person. The witness opened up a white envelope and observed the building manager take physical possession of the forwarding address and the two keys.

The tenant testified that she never received the security deposit, nor the return of the \$120.00 garage key deposit. While the tenant attempted to settle the matter in December 2019, this ultimately proved fruitless. The tenant seeks a doubling of her security deposit, along with the reduced security deposit, and the key deposit.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this dispute, the onus is on the tenant to prove that she is (a) entitled to the return of her security deposit, and (b) also entitled to a doubling of the amount of that security deposit.

Section 38(1) of the Act requires that within 15 days after the later of the date the tenancy ends, or the date the landlord receives the tenant's forwarding address in writing, the landlord must do one of the following: (1) repay any security deposit or pet damage deposit to the tenant, or (2) apply for dispute resolution claiming against the security deposit or pet damage deposit. A landlord may only keep a security deposit if either the tenant has provided written authorization for said retention, or, if an arbitrator orders a landlord to do so.

Section 38(6) of the Act states that “If a landlord does not comply with subsection [38](1), the landlord (a) may not make a claim against the security deposit or any pet damage deposit, and (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

In this case, the tenant provided

In this dispute, the tenant paid a security deposit of \$500.00. She provided her forwarding address in writing to the landlord at the end of the tenancy. She did not receive the security deposit, which was at that point reduced to \$400.00 because of an arbitrator’s decision and order (of September 9, 2019). Therefore, the Act required the landlord to return the \$400.00 within 15 days or apply for dispute resolution, neither of which, I find, occurred. Nor did the tenant provide written consent for the landlord to retain any of the \$400.00.

As such, I find that the tenant is entitled to a return of the \$400.00 security deposit.

I further find that the landlord did not comply with section 38(1), pursuant to section 38(6) of the Act and must therefore pay the tenant double the amount of the security deposit, for a total of \$800.00. (The landlord is not required to pay the tenant double the original security deposit, as they were only required by the Act to return the \$400.00, which is the amount that is to be doubled.)

Finally, there is no contradictory evidence for me to find that the tenant is not entitled to a return of the garage key deposits totaling \$120.00. Indeed, one of the text message conversations between the tenant and the landlord confirms that this amount exists, and that the tenant is entitled to the return of the deposit.

Taking into consideration all of the undisputed testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the tenant has met the onus of proving her claim for compensation.

In summary, I award the tenant a total of \$920.00, comprising the security deposit amount of \$400.00, the additional doubled amount of \$400.00, and the garage keys deposit of \$120.00. A corresponding monetary order in this amount is issued along with this Decision to the tenant.

Conclusion

I grant the tenant a monetary order in the amount of \$920.00, which must be served on the landlord. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: March 6, 2020

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Residential Tenancy Branch