



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Fortune Industries, Inc. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FFT

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for a return of his security deposit and pet damage deposit; and
- recovery of the filing fee paid for this application.

The tenant, his advocate, and the listed landlord appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

The tenant listed a corporate landlord as the respondent. The above named individual appeared as a respondent.

In response to my inquiry, the respondent said that the corporation named in the application was defunct and had been for several years.

I note that the written tenancy agreement submitted into evidence by the landlord shows the above named individual was listed as the landlord.

The respondent here agreed that the application should be amended to exclude the named corporation and to add the appearing respondent. I amended the application and any resulting monetary order.

Preliminary Issue-

During the hearing, the tenant responded to my inquiries about his application; however, the tenant continued to address other issues not related to the issue in his application. The tenant continuously spoke about the events related to the end of his tenancy and why he believed he was forced to vacate the rental unit.

I continuously informed the tenant that this evidence was not relevant to his application; however, even at that, much of the testimony the tenant provided for non-relevant issues was said multiple times.

The tenant then said I was not listening to him and he was not being allowed to speak.

I informed the tenant that if he wanted to address this concern after the hearing, he should consult with his advocate or the Residential Tenancy Branch (RTB) staff.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for the amount of his security deposit and pet damage deposit and to recovery of the filing fee?

Background and Evidence

The written tenancy agreement and the testimony showed that this tenancy began on May 1, 2017 and ended on July 31, 2019.

The undisputed evidence was that the tenant paid a security deposit of \$400 and a pet damage deposit of \$400.

The tenant's undisputed evidence was that the landlord was provided the tenant's written forwarding address in a letter from the tenant's advocate, dated September 23, 2019. The landlord confirmed that he also received the tenant's written forwarding address on July 30, 2019.

The tenant submitted that the landlord has not returned either the security deposit or pet damage deposit.

Both parties agree there was a move-in, but not a move-out condition inspection report (CIR).

*Landlord's response-*

The landlord submitted evidence that the tenant owed rent for the month after the tenancy, as he did not provide proper notice he was vacating. Additionally, the landlord submitted that the tenant did not leave the rental unit reasonably clean and it was necessary to hire a cleaner. The landlord submitted that the tenant did not return the keys to the rental unit and it was necessary to have the locks re-keyed, at a cost.

The landlord submitted receipts of the claimed items.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 38(1) of the Act, at the end of a tenancy, unless the tenant's right to a return of their security deposit or pet damage deposit has been extinguished, a landlord must either repay a tenant's security deposit and pet damage deposit or to file an application for dispute resolution to retain the security deposit and pet damage deposit within 15 days of the later of receiving the tenant's forwarding address in writing and the end of the tenancy.

If a landlord fails to comply with the Act, then the landlord must pay the tenant double the security deposit and pet damage deposit, pursuant to section 38(6) of the Act.

In this case, neither party raised an issue with regard to extinguishment during the hearing or in their evidence. I also find the evidence was inconclusive as to whether either party has extinguished their rights to the return or retention of the security deposit and pet damage deposit.

In the case before me, the undisputed evidence shows that the tenancy ended on July 31, 2019, and that the landlord received the tenant's written forwarding address on July 30, 2019, and again in a letter of September 23, 2019 by the tenant's advocate. The Act says that unless there is proof to the contrary, documents sent by registered mail or mail are deemed delivered 5 days later. In this case the landlord was deemed to have received the tenant's written forwarding address for a second time by September 28, 2019.

Due to the above, I find the landlord was obligated to repay the tenant's security deposit and pet damage deposit, or make an application for dispute resolution claiming against the deposits by August 14, 2019. In contravention of the Act, the landlord retained the security deposit and pet damage deposit, without filing an application.

I therefore find the tenant is entitled to a return of his security deposit of \$400 and pet damage deposit of \$400 each. I also find that these two deposits must be doubled.

Due to the above, I therefore find the tenant has established a total monetary claim of \$1,700, comprised of his security deposit of \$400, doubled to \$800, his pet damage deposit of \$400, doubled to \$800, and the filing fee paid for this application of \$100, which I have awarded him due to his successful application.

I grant the tenant a monetary order in the amount of \$1,700 and it is included with this Decision.

Should the landlord fail to pay the tenant this amount without delay, the order may be served upon the landlord and filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

### Conclusion

The tenant's application for monetary compensation is granted as he is awarded a monetary order in the amount of \$1,700 as noted above.

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: March 18, 2020

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Residential Tenancy Branch