



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC   MNSD   FF

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, originally made on November 19, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for money owed or compensation for damage or loss; and
- an order that the Landlord return all or part of the security deposit and/or pet damage deposit.

The Tenant attended the hearing and was accompanied by B.D., a legal advocate. The Landlord did not attend the hearing. The Tenant provided affirmed testimony.

The Tenant testified the Notice of Dispute Resolution Hearing package was served on the Landlord in person on June 19, 2020. The Tenant testified that service was witnessed by her sister. In the absence of evidence to the contrary, I find these documents were received by the Landlord on June 19, 2020.

The Tenant and her legal advocate were given an opportunity to present evidence orally and in written and documentary form, and to 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

1. Is the Tenant entitled to a monetary order for money owed or compensation for damage or loss?
2. Is the Tenant entitled to recover the security deposit and/or pet damage deposit?

### Background and Evidence

The Tenant testified that she viewed the rental unit on January 15, 2019 and agreed to move in on February 1, 2019. On that date, the Tenant provided the Landlord with \$1,200.00 for the first month's rent and \$600.00 as a security deposit. A Shelter Information form was submitted in support.

First, the Tenant claimed \$1,200.00 as reimbursement of rent paid for the first month of the tenancy. The Tenant testified he paid \$1,200.00 on January 15, 2019 but was never given access to the rental unit.

Second, the Tenant claimed \$600.00 in recovery of the security deposit paid to the Landlord on January 15, 2019. The Tenant testified the Landlord was given a forwarding address in writing in a letter from his legal advocate dated July 26, 2019, and again in person on November 14, 2019. A copy of the letter was submitted into evidence.

The Landlord did not attend the hearing to dispute the Tenant's evidence.

### Analysis

Based on the unchallenged documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

With respect to the Tenant's claim for \$1,200.00, section 16 of the *Act* confirms that the rights and obligations of a landlord and a tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit. In this case, I find that the parties entered into a tenancy agreement on January 15, 2019, at which time the Tenant provided the Landlord with first month's rent in the amount of \$1,200.00. I find the Tenant was supposed to be given possession of the rental unit on February 1, 2019 but that the Landlord did not

permit access to the rental unit. Accordingly, I find the Tenant has demonstrated an entitlement to a reimbursement of rent paid in the amount of \$1,200.00.

With respect to the Tenant's request for \$600.00 for the return of the security deposit, section 38(1) of the *Act* requires a landlord to repay deposits or make an application to keep them by filing an application for dispute resolution within 15 days after receiving a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the amount of the deposits. The language in the *Act* is mandatory. In this case, I find the Landlord was provided with a forwarding address in writing by regular mail on July 26, 2019. Pursuant to sections 88 and 90 of the *Act*, documents served by regular mail are deemed to be received five days later. I find the Landlord is deemed to have received the Tenant's forwarding address in writing on July 31, 2019. As a result, the Landlord had until August 15, 2019 to return the security deposit to the Tenant or make a claim against it by filing an application for dispute resolution. There is insufficient evidence before me to conclude the Landlord did either. Accordingly, I find the Tenant is entitled to a monetary award for double the amount of the security deposit, or \$1,200.00.

Pursuant to section 67 of the *Act*, I find the Tenant has demonstrated an entitlement to a monetary order in the amount of \$2,400.00, with is comprised of \$1,200.00 as reimbursement of rent paid and \$1,200.00 for the return of double the amount of the security deposit.

### Conclusion

The Tenant is granted a monetary order in the amount of \$2,400.00. 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: July 13, 2020

---

Residential Tenancy Branch