



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capilano Property Management  
Services and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 38.1 of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for the return of double the security deposit (the deposit).

The tenants submitted a signed Proof of Service Tenant's Notice of Direct Request Proceeding which declares that on September 10, 2020, the tenants personally served the landlord's agent the Notice of Direct Request Proceeding. The tenants had the agent sign the Proof of Service Tenant's Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the tenants and in accordance with section 89 of the *Act*, I find that the landlord has been duly served with the Direct Request Proceeding documents on September 10, 2020.

### Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

Are the tenants entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenants submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord's agent on November 25, 2018, indicating a monthly rent of \$1,400.00 and a security deposit of \$700.00, for a tenancy commencing on December 15, 2018;

- A copy of a letter from the tenants to the landlord dated July 12, 2020, providing the forwarding address and requesting the return of the deposit;
- A copy of a witnessed Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form (Proof of Service of the Forwarding Address) which indicates that the forwarding address was personally served to the landlord's agent at 7:44 pm on July 13, 2020; and
- A copy of a Tenant's Monetary Order Worksheet for an Expedited Return of Security Deposit and/or Pet Damage Deposit (the Monetary Order Worksheet). showing the amount of deposit paid by the tenants, an authorized deduction in the amount of \$100.00, and indicating the tenancy ended on June 30, 2020.

### Analysis

Section 38(1) of the *Act* states that the landlord has fifteen days from the end of tenancy and the date they received the forwarding address to either return the deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

Section 38(6) of the *Act* states that if the landlord does not return the deposit(s) or file a claim against them within the fifteen days, the landlord must pay the tenant double the amount of the deposit(s).

I have reviewed all documentary evidence and I find that the tenants paid a security deposit in the amount of \$700.00, as per the tenancy agreement.

I accept the following declarations made by the tenants on the Monetary Order Worksheet:

- The tenants have not provided consent for the landlord to keep more than \$100.00 of the deposit;
- There are no outstanding Monetary Orders against the tenants for this tenancy; and
- The tenants have not extinguished their right to the deposits in accordance with sections 24(1) and 36(1) of the *Act*.

I accept the tenants' statement on the Monetary Order Worksheet that the tenancy ended on June 30, 2020.

In accordance with section 88 of the *Act*, I find that the landlord was duly served with the forwarding address on July 13, 2020.

I accept the evidence before me that the landlord has failed to return the balance of the deposit to the tenants and has not filed an Application for Dispute Resolution requesting to retain the deposit by July 28, 2020, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that the landlord must pay the tenants double the portion of the security deposit that the tenants did not authorize to be kept, in accordance sections 38(6) of the *Act*.

Therefore, I find that the tenants are entitled to a monetary award in the amount of \$1,200.00, the amount claimed by the tenants for double the security deposit, as of the date of this application, September 1, 2020.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the tenants a Monetary Order in the amount of \$1,300.00 for the return of double the security deposit and for the recovery of the filing fee for this application. The tenants are provided with this Order in the above terms and the landlord must be served with **this Order** as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: September 14, 2020

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Residential Tenancy Branch