



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDL-S, FFL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on July 31, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- a monetary order for damage, compensation, or loss;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on November 23, 2020 as a teleconference hearing. Only the Tenant T.I. attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Landlord. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that Tenant and I were the only persons who had called into this teleconference.

### Preliminary Matters

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may proceed without that party or the application may be dismissed with or without leave to reapply. As no one attended the hearing for the Landlord, I dismiss the Landlord's Application without leave to reapply. As the Landlord had applied to retain the Tenant's security deposit, the hearing continued to determine if the Tenants are entitled to the return of her security deposit.

The Tenant was 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.

Issue(s) to be Decided

1. Are the Tenants entitled to the return of her security deposit, pursuant to Section 38 of the *Act*?

Background and Evidence

The Tenant stated that the tenancy started on July 1, 2019. During the tenancy, the Tenants were required to pay rent in the amount of \$950.00 to the Landlord each month. The Tenant stated that he paid a security deposit in the amount of \$950.00, as well as a pet damage deposit in the amount of \$475.00 to the Landlord for a total of \$1,475.00 currently being held by the Landlord. The Tenant stated that the tenancy ended on July 31, 2020.

The Tenant stated that at the end of the tenancy, the Tenants provided their forwarding address to the Landlord in writing on July 31, 2020. The Tenant stated that the Landlord collected the Tenants' forwarding address as the Notice of the Hearing was sent to the Tenants' forwarding address. The Tenant stated that the Tenants did not consent to the Landlord retaining any amount of their deposit and that the Landlord has not yet returned any amount of the deposit to the Tenants.

Analysis

Based on the documentary evidence before me for consideration and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the *Act* requires a landlord to repay deposits or make a claim against 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 comply with section 38(1) of the *Act*, and does not have authority under sections 38(3) or 38(4) of the *Act* to withhold any deposits, section 38(6) stipulates that a tenant is entitled to receive double the amount of the security deposit.

In this case, I accept that the Tenancy ended on July 31, 2020 and that the Landlord submitted her Application for Dispute Resolution on July 31, 2020. I further accept that the Landlord was provided with the Tenants' forwarding address, as it was used to send the Notice of Hearing to. As the Landlord did not attend the hearing, their Application, along with the claim to retain the Tenants' deposits is dismissed without leave to reapply.

In light of the above, I find that the Tenants are entitled to the return of their security and pet damage deposit in the amount of **\$1,425.00**.

### Conclusion

No one attended the hearing for the Applicant, therefore, the Landlord's Application is dismissed without leave to reapply. The Tenants are granted to monetary order in the amount of \$1,425.00 which represented the full return of their security and pet damage deposit. The monetary order should be served to the Landlord as soon as possible and 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: November 23, 2020

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Residential Tenancy Branch