



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **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 and the pet damage deposit (the “deposits”).

The Tenants submitted a signed Proof of Service - Tenant's Notice of Direct Request Proceeding which declares that on December 10, 2020, the Tenants served the Landlord the Notice of Direct Request Proceeding by registered mail. The Tenants provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the Tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received the Direct Request Proceeding documents on December 15, 2020, five days after they were mailed.

### **Issues to be Decided**

1. Are the Tenants entitled to monetary compensation for the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 of the *Act*?
2. 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 and the Tenants on January 9, 2019, indicating a monthly rent of \$2,100.00, a security deposit of \$925.00, and a pet damage deposit of \$400.00, for a tenancy commencing on April 1, 2019;
- A copy of a Notice to Move Out dated September 15, 2020 that was signed by the Tenants and indicated the tenancy would end as of October 31, 2020, provide the Tenants' forwarding address, and requested the return of the deposits;
- A copy of a 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 provided to the Landlord in person on September 15, 2020, with a witness present; and
- A copy of a Tenant's Direct Request Worksheet showing the amount of deposits paid by the Tenants.

### Analysis

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

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

I have reviewed the documentary evidence submitted and I find that the Tenants paid a security deposit in the amount of \$925.00 and a pet damage deposit in the amount of \$400.00, as per the tenancy agreement.

I accept the following declarations made by the Tenants on the Tenant's Direct Request Worksheet:

- The Tenants have not provided consent for the Landlord to keep all or part of the deposits;
- 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 Tenant's Direct Request Worksheet that the tenancy ended on October 31, 2020

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord received the Tenants' forwarding address on September 15, 2020, on which date it was served on the Landlord in person.

I accept the evidence before me that the Landlord has failed to return the deposits to the Tenants and did not file an Application for Dispute Resolution requesting to retain the deposits by November 15, 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 amount of the security deposit and the pet damage deposit in accordance section 38(6) of the *Act*.

Therefore, I find that the Tenants are entitled to a monetary award in the amount of \$2,650.00, double the security deposit and the pet damage deposit.

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

Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the Tenants a monetary order in the amount of \$2,750.00 for the return of double the security deposit and the pet damage deposit and for the recovery of the filing fee for this application. The monetary 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: December 22, 2020

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Residential Tenancy Branch