



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Shape Living Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- compensation for a monetary loss or other money owed;
- authority to keep the tenant's security deposit and pet damage deposit to use against a monetary award; and
- recovery of the filing fee.

The landlord's agent (landlord), the tenant, and his advocate/translator attended the hearing, and all were affirmed.

I then informed the landlord I could not proceed with their application as the issues were the same issues presented in an earlier dispute resolution application.

On May 14, 2020, the landlord filed an application for dispute resolution seeking compensation from the tenant and also authority to keep the tenant's security deposit and pet damage deposit to use against a monetary award.

In the earlier application, the landlord asked for the following:

*Tenant signed a 1-year lease commencing on October 1, 2020, with fixed-term ending on September 30, 2020. Tenant has broken lease and moved out April 30, 2020. Monetary Loss and Money Owed as follows: - **Liquidated Damages: \$1885.00 - May 2020 Rent (Loss of Revenue): \$1885.00 - June 2020 Rent (Loss of Revenue): \$1885.00 - July 2020 Rent (Loss of Revenue): \$1885.00 - August 2020 Rent (Loss of Revenue): \$1885.00 Total: \$***

[My emphasis]

Also, the landlord asked for the following:

*Tenant had a pet within the unit during tenancy. Tenant is required to conduct a flea inspection prior to vacating in order to ensure that no fleas are present within the unit. We will be completing a **flea inspection** by a professional pest control company and will provide the receipt once we receive it.*

This claim was **\$200**.

In a Decision of September 17, 2020, another arbitrator dismissed the landlord's original application, **without leave to reapply**. That file number is referenced on the style of cause page of this Decision. [My emphasis]

Filed into evidence was a copy of that Decision.

In the present application filed on October 15, 2020, the landlord asked for the following:

*Tenant signed a one-year lease commencing October 1, 2019, with fixed-term ending on September 30, 2020. Tenant has broken lease and moved out April 30, 2020. Tenant also failed to provide proof of flea inspection upon move-out. Monetary Loss and Money Owed as follows: - **Liquidated Damages: \$1885.00 - May 2020 Rent (Loss of Revenue): \$1885.00 - June 2020 Rent (Loss of Revenue): \$1885.00 - Cost of Flea Inspection: \$200.00 Total: \$5855.00***

I find the issues in both applications were identical.

I therefore find these matters have been decided upon by another arbitrator in a hearing and decision of September 17, 2020.

The parties were informed during the hearing, that I cannot re-hear and change or vary a matter already heard and decided upon as I am bound by the earlier decision September 17, 2020, under the legal principle of *res judicata*. Res judicata is a rule in law that a final decision, determined by an Officer with proper jurisdiction and made on the merits of the claim, is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent Application involving the same claim.

For this reason, I dismiss the landlord's application here, **without leave to reapply**.

As I have dismissed the landlord's application claiming against the tenant's security deposit of \$942.50 and pet damage deposit of \$942.50, I find it necessary to consider those two deposits.

Filed into evidence was condition inspection report (CIR), with attachment, and a security deposit deduction form. These two forms were submitted by the landlord. The attachment to the CIR showed that the tenant agreed the landlord could keep \$835 from his deposits, for unpaid monthly rent for April 2020, and the security deposit deduction form showed that the tenant also agreed that the landlord could keep \$835 for the unpaid monthly rent for April 2020.

The tenant specifically disagreed that the landlord could keep \$1,885 as liquidated damages. It appears the tenant did not agree to the \$200 pest control fee, as that part of the form contained a handwritten notation.

In this case, I find the tenant agreed in writing the landlord could keep the amount of \$835 from his security deposit.

Residential Tenancy Policy Guideline 17 C. 1 states that the arbitrator will order the return, or the balance of, the security deposit on the landlord's application to retain the security deposit. Pet damage deposits are also to be handled in the same manner as security deposits.

For the above reasons, I allow the landlord to retain the amount of \$835, from the tenant's security deposit of \$942.50, and order the landlord to return the balance of the security deposit, or **\$107.50**, and the pet damage deposit of **\$942.50**, immediately.

To give effect to this order, I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of **\$1,050**, which is included with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay, the monetary order must be served upon the landlord for enforcement, and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The landlord is **cautioned** that costs of such enforcement are recoverable from the landlord.

Conclusion

The landlord's application is dismissed, **without leave to reapply**.

The landlord has been ordered to return the balance of the tenant's security deposit of **\$107.50** and the pet damage deposit of **\$942.50**. The tenant is granted a monetary order of **\$1,050**.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 16, 2021

Residential Tenancy Branch