



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 a security deposit and to recover the filing fee.

The Tenants submitted a signed Proof of Service - Tenant's Notice of Direct Request Proceeding which declares that the Tenants served with Landlord with the Notice of Direct Request Proceeding and supporting documents by registered mail on February 25, 2021. The Tenants provided copies of Canada Post receipts containing the Tracking Number and an image of an envelope bearing a registered mail label to confirm this mailing. Service in this manner was also witnessed by C.S. Based on the written submissions and evidence of the Tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received these documents on March 2, 2021, 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 pursuant to sections 38 and 67 of the *Act*?
2. Are the Tenants entitled to recover the filing fee 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 4-page residential tenancy agreement which was signed on May 17, 2019, indicating a monthly rent of \$2,000.00 and a security deposit of \$1,000.00, for a tenancy commencing on June 1, 2019;
- A copy of the first and fourth pages of a residential tenancy agreement which was signed on May 23, 2020, indicating a monthly rent of \$2,000.00 and a security deposit of \$1,000.00, for a tenancy commencing on June 1, 2020;
- A copy of a 2-page move-in condition inspection report signed by the Landlord and the Tenant A.L. on June 18, 2019;
- A copy of a 2-page move-out condition inspection report signed by the Landlord and the Tenant A.L. on January 27, 2021, which included the Tenants' forwarding address;
- A copy of a Proof of Service - Tenant's Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit dated February 15, 2021 confirming service of a forwarding address on the Landlord on the move-out condition inspection report dated January 27, 2021, which was witnessed by C.S.; and
- A copy of a Tenant's Direct Worksheet dated February 15, 2021 confirming the amount of the security deposit paid and that the Tenants vacated the rental unit on January 27, 2021.

### 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 deposits in full or make an application for dispute resolution claiming against the deposits.

Section 38(6) of the *Act* states that if the 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 all documentary evidence and I find that the tenancy commenced on June 1, 2019. I also find the Tenants paid a security deposit in the amount of \$1,000.00.

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 security 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 Tenant's Direct Request Worksheet that the tenancy ended when the Tenants vacated the rental unit on January 27, 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord received the Tenants' forwarding address in writing on January 27, 2021, the day it was provided on the move-out condition inspection report.

I accept the evidence before me that the Landlord failed to return the security deposit to the Tenants and did not file an Application for Dispute Resolution requesting to retain the security deposit by February 11, 2021, 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 in accordance with sections 38(6) of the *Act*, which totals \$2,000.00 (\$1,000.00 x 2).

Having been successful I also find the Tenants are entitled to recover the \$100.00 filing fee paid to make the application.

### Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the Tenants a monetary order in the amount of \$2,100.00 for the return of double the security deposit and in recovery of the filing fee (\$2,000.00 + \$100.00). The order must be served on the Landlord. 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: March 11, 2021

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Residential Tenancy Branch