



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSDS-DR, FFT

### Introduction

On November 18, 2020, the Tenants submitted an Application for Dispute Resolution by way of an *ex parte* Direct Request Proceeding under the *Residential Tenancy Act* (the “Act”). The Tenants requested the return of the security deposit, and to be compensated for the cost of the filing fee. The Tenants’ evidence for the Direct Request was reviewed and found to be incomplete; therefore, the matter was set for a participatory hearing via conference call.

The Tenants attended the conference call hearing; however, the Landlords did not attend at any time during the 29-minute hearing. The Tenants testified that they served the Landlords with the Notices of Dispute Resolution Proceeding packages by sending them via registered mail on December 19, 2020. The Tenants provided the tracking numbers from Canada Post and that the Canada Post website indicated that a notice card was left to indicate where and when to pick up the packages. The Tenants stated that the Landlords refused to pick up the packages and that they were returned to the Tenants. I find that the Landlords have been duly served with the Notice of Dispute Resolution Proceeding in accordance with Section 89 the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Landlords did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Tenants.

### Issues to be Decided

Should the Tenants receive a Monetary Order for the return of the security deposit, in accordance with sections 38 and 67 of the Act?

Should the Tenants be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

### Background and Evidence

The Tenants provided the following undisputed evidence:

The one-year, fixed-term tenancy began on October 15, 2019 and ended 2 weeks early, with the Tenants moving out on September 30, 2020. The rent was \$1,300.00 and due on the first of each month. The Landlords collected a security deposit in the amount of \$650.00 and a pet damage deposit in the amount of \$650.00.

On August 24, 2020, the Tenants provided the Landlords notice to end the tenancy for September 30, 2020.

On September 23, 2020, Tenant MG attended the rental unit with one of the Landlords to conduct a move-out inspection. The Landlord did not have a Move-Out Condition report and no documents were signed.

The Tenants did not provide consent for the Landlords to keep their security deposit or pet damage deposit and requested the return of their deposits while providing a forwarding address via email on October 4, 2020 and then via registered mail on October 28, 2020.

The Landlords returned the pet damage deposit to the Tenants on October 13, 2021.

The Tenants stated that the Landlords attempted to negotiate with them about keeping the security deposit as compensation for the first two weeks of October 2020; however, the Tenants stated that the Landlords failed to make attempts to find new tenants for the rental unit and therefore should return the security deposit.

The Tenants are claiming the return of double the security deposit and compensation for the filing fee.

### Analysis

Section 38 of the Act states that the landlord has fifteen days, from the later of the day the tenancy ends or the date the landlord received the tenant's forwarding address in

writing to return the security deposit to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an Application for Dispute Resolution claiming against the deposit. If the landlord does not return or file for Dispute Resolution to retain the deposit within fifteen days and does not have the tenant's agreement to keep the deposit, or other authority under the Act, the landlord must pay the tenant double the amount of the deposit.

I accept the Tenants' undisputed testimony and evidence that they requested their \$650.00 security deposit and notified the Landlords of their forwarding address on November 2, 2020 (deemed served), in accordance with Sections 88 and 90 of the Act.

I have no evidence before me that the Landlords returned the balance of the security deposit, reached written agreement with the Tenants to keep some of the security deposit or made an Application for Dispute Resolution claiming against the deposit. For these reasons, I find the Landlords must reimburse the Tenants double the amount of the outstanding security deposit for a total of \$1,300.00, pursuant to Section 38 of the Act.

I find that the Tenants' Application has merit and that the Tenants are entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00, pursuant to section 72 of the Act.

### Conclusion

I grant the Tenants a Monetary Order for the amount of \$1,400.00, in accordance with sections 38 and 67 of the Act. In the event that the Landlords do not comply with this Order, it may be served on the Landlords, filed with the Province of British Columbia Small Claims 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: April 21, 2021

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Residential Tenancy Branch