



# 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 filed 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 Notice of Direct Request Proceeding which declares that the Landlord was served with the Notice of Dispute Resolution Proceeding and supporting documents by registered mail on June 11, 2021. Service in this manner was supported by copies of Canada Post receipts containing the tracking number. Pursuant to sections 89 and 90 of the *Act*, I find that the Landlord is deemed to have received these documents on June 16, 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 residential tenancy agreement which was signed by the Tenants on June 13, 2020, indicating a monthly rent of \$1,850.00 and a security deposit of \$925.00, for a tenancy commencing on July 1, 2020;
- A copy of a Mutual Agreement to End a Tenancy signed by the parties on December 22, 2020 and effective on January 31, 2021 (the “Mutual Agreement”);
- A copy of a signed Condition Inspection Report dated February 1, 2021, in which the Tenant E.H. authorizes the Landlord to deduct \$450.00 from the security deposit held and includes the Tenants’ forwarding address (the “Condition Inspection Report”); and
- A copy of a Tenant’s Direct Request Worksheet dated May 21, 2021, confirming the amount of the security deposit paid and the deduction authorized by the Tenant E.H., and confirming that the tenancy ended on January 31, 2021.

### Analysis

Section 38(1) of the *Act* states that the 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 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 Tenants paid a security deposit in the amount of \$925.00 as indicated in the tenancy agreement.

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

- The Tenants have authorized the Landlord to keep \$450.00 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 on January 31, 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the Landlord received the Tenants' forwarding address in writing on February 1, 2021, the date the parties completed the Condition Inspection Report.

I accept the evidence before me that the Landlord did not return the security deposit to the Tenants or file an Application for Dispute Resolution requesting to retain the balance of the security deposit (\$475.00) by February 16, 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 sections 38(6) of the *Act*. Policy Guideline #17 provides examples which illustrate the different ways in which a security deposit may be doubled.

Considering the examples in Policy Guideline #17, I find that the Tenants are entitled to a monetary award in the amount of \$950.00, which has been calculated as follows:

$$\mathbf{\$925.00 - \$450.00 = \$475.00}$$

$$\mathbf{\$475.00 \times 2 = \$950.00}$$

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 38, 67 and 72 of the *Act*, I grant the Tenants a monetary order in the amount of \$1,050.00 for the return of double the security deposit and in recovery of the filing fee (\$950.00 + \$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: June 17, 2021

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Residential Tenancy Branch