



# Dispute Resolution Services

Page: 1

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 to obtain monetary compensation for the return of the security deposit (the deposit) and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the tenants on September 27, 2021.

The tenants submitted two signed Proof of Service Tenant's Notice of Direct Request Proceeding forms which declare that on October 6, 2021, the tenants sent each landlord the Notice of Dispute Resolution Proceeding - Direct Request by registered mail. The tenants provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

Based on the written submissions of the tenants and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on October 6, 2021 and are deemed to have been received by the landlord on October 11, 2021, the fifth day after their registered mailing.

### Issue(s) to be Decided

Are the tenants entitled to monetary compensation for the return of a security deposit pursuant to sections 38 and 67 of the *Act*?

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 Landlord D.G. and Tenant K.S. on February 19, 2016, indicating a monthly rent of \$1,250.00 and a security deposit of \$625.00, for a tenancy commencing on March 1, 2016
- A copy of a notice to vacate from the tenants dated July 15, 2021, indicating the tenancy would end as of August 31, 2021 and providing the forwarding address
- A copy of a reply letter from the landlords dated July 22, 2021 confirming the landlords received the notice to vacate containing the forwarding address
- A copy of a witnessed Proof of Service Tenant Forwarding Address for the Return of Security and/or Pet Damage Deposit form which indicates that the forwarding address was personally served to the landlords on July 15, 2021
- A copy of a Tenant's Direct Request Worksheet showing the amount of the deposit paid by the tenants and indicating the tenancy ended on August 31, 2021

### Analysis

Paragraph 12 (1) (b) of the *Residential Tenancy Regulation* establishes that a tenancy agreement is required to be "signed and dated by both the landlord and the tenant."

I find that Landlord B.G. and Tenant J.G. have not signed the tenancy agreement, which is a requirement of the Direct Request process.

For this reason, I will only proceed with the portion of the tenants' application naming Landlord D.G. as a respondent and Tenant K.S. as an applicant.

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 deposit(s) in full or make an application for dispute resolution claiming against the deposit(s).

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

I have reviewed all documentary evidence and I find that Tenant K.S. paid a security deposit in the amount of \$625.00, as per the tenancy agreement.

I accept the following declarations made by Tenant K.S. on the Tenant's Direct Request Worksheet:

- Tenant K.S. has not provided consent for Landlord D.G. to keep all or part of the deposit
- There are no outstanding Monetary Orders against Tenant K.S. for this tenancy
- Tenant K.S. has not extinguished their right to the deposit in accordance with sections 24(1) and 36(1) of the *Act*.

In accordance with section 88 of the *Act*, I find that the forwarding address was duly served to Landlord D.G. on July 15, 2021.

I accept Tenant K.S.'s statement on the Tenant's Direct Request Worksheet that the tenancy ended on August 31, 2021.

I accept the evidence before me that Landlord D.G. has failed to return the deposit to Tenant K.S. and has not filed an Application for Dispute Resolution requesting to retain the deposit by September 15, 2021, within the fifteen days granted under section 38(1) of the *Act*.

Based on the foregoing, I find that Landlord D.G. must pay Tenant K.S. double the amount of the security deposit in accordance sections 38(6) of the *Act*.

Therefore, I find that Tenant K.S. is entitled to a monetary award in the amount of \$1,250.00, the amount claimed by Tenant K.S. for double the security deposit.

As Tenant K.S. was partially successful in this application, I find that Tenant K.S. is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant Tenant K.S. a Monetary Order in the amount of \$1,350.00 for the return of double the security deposit and for the recovery of the filing fee for this application. Tenant K.S. is provided with this Order in the above terms and Landlord D.G. must be served with **this Order** as soon as possible. Should Landlord D.G. fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the portion of the tenants' application naming Landlord B.G. as a respondent without leave to reapply.

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: November 05, 2021

---

Residential Tenancy Branch