



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDB-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 Tenant for a monetary order for the return of a security deposit and a pet damage deposit, and to recover the filing fee.

The name of the individual Landlord named in the application does not match the name of the corporate landlord which appears in the tenancy agreement. However, I am satisfied that the individual Landlord named in the application is a landlord as defined under section 1 of the Act as documentary evidence submitted by the Tenant confirmed that the individual Landlord named in the application exercised powers and performed duties under the Act and the tenancy agreement.

The Tenant submitted a signed Proof of Service Tenant Notice of Direct Request Proceeding documents which declare that the Landlord was served with the Notice of Dispute Resolution Proceeding and supporting documents in person on January 21, 2022. Service and receipt of these documents was acknowledged by the Landlord's signature. I find that the Landlord was served with and received these documents on January 21, 2022.

### Issues to be Decided

1. Is the Tenant entitled to monetary compensation for the return of a security deposit and a pet damage deposit pursuant to sections 38 and 67 of the Act?
2. Is the Tenant 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 Tenant submitted the following relevant evidentiary material:

- A copy of a signed residential tenancy agreement dated September 17, 2021, for a tenancy commencing on October 1, 2020;
- A copy of a redacted bank statement for the period from September 10 to October 9, 2020, showing a debit card purchase of \$631.66 on September 17, 2020, with a written note that it represents “2/3 of security deposit”;
- A copy of a receipt confirming payment of a security deposit of \$315.84 on September 17, 2020;
- A copy of a receipt confirming payment of a pet damage of \$947.50 on November 3, 2020;
- A copy of a type-written letter to the Landlord advising of the Tenant’s intention to end the tenancy on September 30, 2021;
- A copy of a Condition Report confirming a move-out condition inspection occurred on September 30, 2021, and including a forwarding address;
- A copy of email correspondence from the Landlord to the Tenant dated November 22, 2021, stating: “No deposits will be issued until proof of payment is received”;
- A copy of a Proof of Service Tenant Notice of Forwarding Address for Return of Security and/or Pet Damage Deposit confirming service of a forwarding address on a move-out inspection report on September 30, 2021;
- A copy of a Tenant’s Direct Request Worksheet dated December 15, 2021, confirming the amount of the security deposit (\$947.50) and the pet damage deposit (\$947.50) and that the tenancy ended on September 30, 2021; and

- A copy of a statement which show a refund of \$1,895.00 to the Tenant received on December 13, 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, 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 Tenant paid a security deposit in the amount of \$947.50 and a pet damage deposit of \$947.50, as indicated in the tenancy agreement, the Tenant's Direct Request Worksheet, and in the bank statements and payment receipts submitted.

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

- The Tenant has not provided consent for the Landlord to keep all or part of the security deposit and pet damage deposit;
- There are no outstanding monetary orders against the Tenant for this tenancy; and
- The Tenant has not extinguished their right to the deposits in accordance with sections 24(1) and 36(1) of the Act.

I accept the Tenant's statement on the Tenant's Direct Request Worksheet that the tenancy ended on September 30, 2021.

I find that the Landlord received the Tenant's forwarding address in writing on September 30, 2021, as confirmed on the Condition Report submitted into evidence.

I accept the evidence before me that the Landlord did not return the security and pet damage deposits to the Tenant and did not file an Application for Dispute Resolution requesting to retain the security deposit by October 15, 2021, within the fifteen days granted under section 38(1) of the Act. Indeed, the email correspondence dated

November 22, 2021, confirmed the Landlord would not return the deposits to the Tenant until the Tenant provided proof that the deposits were paid to the Landlord.

Based on the foregoing, I find that the Landlords must pay the Tenant double the amount of the security deposit in accordance sections 38(6) of the Act.

Policy Guideline #17 assists when calculating double the security and/or pet damage deposits due to a tenant. In this case, and in accordance with Policy Guideline #17, I find that the Tenant is entitled to receive double the security and pet damage deposits less the amount received on December 13, 2021, which has been calculated as follows:

$$\mathbf{\$1,895.00 \times 2 = \$3,790.00}$$

$$\mathbf{\$3,790.00 - \$1,895.00 = \$1,895.00}$$

Having been successful I also find the Tenant is 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 Tenant a monetary order in the amount of \$1,995.00 for the return of double the security deposit and in recovery of the filing fee (\$1,895.00 + \$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: February 7, 2022

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Residential Tenancy Branch