



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND-S, FF

### Introduction, Preliminary and Procedural Matters-

This telephone conference call hearing was convened as the result of the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- compensation for alleged damage to the rental unit by the tenants;
- authority to keep the tenants' security deposit to use against a monetary award; and
- recovery of the cost of the filing fee.

The hearing began at 1:30 p.m. Pacific Time on Thursday, October 27, 2022, as scheduled and the telephone system remained open and was monitored for 10 minutes. During this time, no one for the landlord called into the hearing; however, the tenant's spouse/agent was present and ready to proceed. The agent said his wife did not speak English very well and that he knew the details of the tenancy as he was involved with the tenancy. The agent was affirmed.

I continued the hearing for 10 minutes, in order to allow someone for the landlord to call into the hearing. I exited the hearing at 1:40 pm.

Rules 7.3 and 7.4 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the 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.

#### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Accordingly, in the absence of anyone for the landlord/applicant to present evidence at the hearing and in light of the tenant/respondent's agent's attendance at the hearing, I **order** the landlord's application **dismissed without leave to reapply**.

While waiting for the landlord to attend the hearing, the agent confirmed that although they provided their written forwarding address to the landlord, the landlord has not returned their security deposit of \$1,150.

As I have dismissed without leave to reapply the landlord's application claiming against the tenant's security deposit, I **order** the landlord to return the tenant's security deposit of \$1,150, immediately.

To give effect to this order, I grant the tenant a monetary order pursuant to sections 62 and 67 of the Act for the amount of **\$1,150**.

Should the landlord fail to pay the tenant this amount without delay, the monetary order must be served upon the landlord for enforcement, and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The landlord is informed that the tenant's new address for return of the security deposit is located on the cover page of this Decision.

#### Conclusion

The landlord's application is dismissed, without leave to reapply, as they did not call into the teleconference hearing on the date and time scheduled.

The landlord is ordered to return the tenant's security deposit of \$1,150, immediately.

The tenants are granted a monetary order in the amount of \$1,150 in the event the landlord does not comply with this order.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: October 27, 2022

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Residential Tenancy Branch