



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSDB-DR, FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlords for the cost of the application.

The tenant and one of the landlords each gave affirmed testimony and the parties were given the opportunity to question each other and to give submissions.

The parties agree that all evidence has been exchanged, all of which has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for return of all or part or double the amount of the security deposit or pet damage deposit?

### Background and Evidence

**The tenant** testified that this fixed-term tenancy began on March 15, 2021 and reverted to a month-to-month tenancy after March 14, 2022, which ultimately ended on July 25, 2022. Rent in the amount of \$4,580.00 was payable on the 15<sup>th</sup> day of each month, and there are no rental arrears to July 25, 2021. On February 11, 2021 the landlords collected a security deposit from the tenant in the amount of \$2,290.00 and collected a pet damage deposit from the tenant in the amount of \$2,290.00 on February 12, 2021. The rental unit is a single family home, and the landlords did not live on the property

during the tenancy. A copy of the tenancy agreement has been provided for this hearing.

The tenant further testified that after the fixed term had ended, the landlords asked if the tenant would agree to giving 2 months notice to end the tenancy, which the tenant agreed to. The tenant gave notice to end the tenancy on June 13, 2022 effective August 15, 2022, then the parties had a text message exchange wherein the parties mutually agreed to end the tenancy on July 25, 2022, to help the landlords get a new tenant, and to help the tenant move out and get the place cleaned and touch-ups done in plenty of time. Copies of numerous text messages and emails have been provided for this hearing.

The landlords had an agent participate in the move-out condition inspection on July 25, 2022, but the tenant didn't receive a copy of the report. On August 15, 2022 the tenant sent an email to the landlord's agent asking that the landlord's agent complete the move-out condition inspection report with the tenant's forwarding address added. The next day, the landlord's agent responded stating that the forwarding address of the tenant was added to the move-out condition inspection report, and sent the form to the tenant and to the landlord. The tenant also provided the tenant's forwarding address by email.

The tenant received a letter from the landlords dated August 18, 2022 stating that the deductions from the deposits are: \$3,074.30 balance of rent due, less deposits of \$4,580.00, and the balance sent to the tenant was \$1,505.70. The tenant disagrees that the landlords should have withheld the deposits in lieu of rent that was due; the tenancy ended on July 25, 2022 as mutually agreed upon. The tenant paid rent to July 25, 2022.

The landlords have not served the tenant with an Application for Dispute Resolution or a Notice of Dispute Resolution Proceeding claiming either of the deposits.

**The landlord** (MF) testified that the landlords did not serve the tenant with an application seeking to keep the deposits, and the tenant did not agree in writing that the landlords could keep any portion of the deposits. However, the landlords did not know at that time that the landlords would have to make such an application, and within 15 days of receiving the tenant's forwarding address the landlords returned \$1,505.70 to the tenant, on August 17, 2022.

The tenant gave notice to end the tenancy on June 13, 2022. When the fixed term ended, the parties mutually agreed to a month-to-month tenancy and 2 months notice to

end the tenancy. The tenancy ended on August 15, 2022, and the tenant left earlier. Rent ought to have been paid to August 15, 2022. The parties agreed to end the tenancy early and complete the move-out condition inspection; the tenant was going on a trip. The only agreement was that the tenant could leave early.

The rental unit was not advertised and the landlords put it in the hands of a rental agency, who had a series of clients, so the landlords are not aware of the rental agents advertising. New tenants took possession of the rental unit on August 15, 2022.

There were no damages at the end of the tenancy with the exception of damages to the lawn caused by the tenant's pets, which was not raised in the move-out condition inspection.

The landlords gave a letter to the tenant explaining the landlord's position on August 18, 2022, and a copy has been provided for this hearing.

#### SUBMISSIONS OF THE TENANT:

The tenant disputes the landlord's testimony about lawn damage. The landlords decided to put in new grass seed, which required a lot of maintenance for the first few months to water and make sure it grew. The tenant kept the pets off the grass for the entire period, and the landlords now claim damage by the tenant's pets. If the tenant had not maintained the lawn, it would have failed.

#### SUBMISSIONS OF THE LANDLORDS:

None

#### Analysis

The *Residential Tenancy Act* is clear; a landlord has 15 days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return a security deposit and/or a pet damage deposit in full, or must make an application claiming against the deposit(s) within that 15 days. If the landlord fails to do either, the landlord must repay the tenant double the amount(s). Also, a landlord may only claim a pet damage deposit for damages caused by a pet.

In this case, the parties disagree as to the date the tenancy ended; the landlords believe it was August 15, 2022, but the tenant left early. The tenant testified that the tenancy ended on July 25, 2022 and rent was paid to that day. The parties agree that the landlords received the tenant's forwarding address in writing, and the landlord testified it was received on August 17, 2022. The landlords returned \$1,505.70 on August 18,

2022, but have not made an application for dispute resolution claiming any part of the deposits.

Whether or not the landlords are owed money is not for me to decide because I have no application by the landlords, who agree that no claim has been made.

In the circumstances, I find that the tenant has established a monetary claim of double the amount of the security deposit and double the amount of the pet damage deposit, less the \$1,505.70 returned to the tenant ( $\$2,290.00 \times 2 = \$4,580.00 + \$4,580.00 = \$9,160.00 - \$1,505.70 = \$7,654.30$ ).

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee.

I grant a monetary order in favour of the tenant as against the landlords in the amount of \$7,754.30. The landlords must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$7,754.30.

This order is final and binding and may be enforced.

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: March 14, 2023

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Residential Tenancy Branch