



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNSDS-DR FFT**

Introduction

This hearing was convened as a result of the Tenants' application for dispute resolution by direct request ("Application") under the *Residential Tenancy Act* ("Act"). The Tenants applied for:

- an order for the return of the Tenants' security deposit of \$1,050.00 pursuant to section 38; and
- authorization to recover the filing fee for the Application from the Landlords pursuant to section 72.

The Application was made by the Tenants and reviewed by an adjudicator ("Adjudicator") of the Residential Tenancy Branch ("RTB") on an *ex parte* basis without a participatory hearing. In a decision dated March 30, 2023, the Adjudicator who reviewed the Application found the Notice of Dispute Resolution Proceeding Package ("Original NDRP Package") was served on the Landlords and that the Tenants had submitted all the documents required pursuant to *Residential Tenancy Policy Guideline 49*. Based on the findings of the Adjudicator, the Adjudicator issued a monetary order requiring the Landlords pay the Tenants an amount equal to double the Tenants' security deposit in the amount of \$2,100.00.

The Landlords then made an Application for a Review Consideration ("Review Application") in which they sought to have the monetary order set aside on the basis they had new and relevant evidence that was not available at the time of the hearing. In his decision dated April 4, 2023, the arbitrator ("Arbitrator") who considered the Review Application found there was sufficient evidence to support a finding that neither of the Landlords were served with the Original NDRP Packages at the correct address of the Landlords. As such, the Arbitrator found a participatory hearing ("Review Hearing") was required to address the issue of the security deposit so that both parties have the

opportunity to be fairly heard. Notices of the Review Hearing were provided by the RTB to the Landlords and the Landlords were instructed to serve the Tenants with the Notice of Review Hearing with a copy of the decision dated April 4, 2023 made by the Arbitrator.

The Review Hearing was scheduled to be heard before me on for May 4, 2023. The two Landlords and the two Tenants attended the Review Hearing. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure*. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Settlement Agreement

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the Review Hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The Landlords and Tenants agreed to the following final and binding settlement of all issues currently under dispute:

1. The Tenants agree to withdraw the Application;
2. The Tenants agree the Landlords may retain \$550.00 of their security deposit of \$1,050.00 that is currently being held by the Landlords;
3. The Landlords agree to return \$500.00 of the security deposit to the Tenants by May 31, 2023; and
4. Other than for the terms of this settlement, each of the parties agrees to release the other party from any claims arising from a breach of the tenancy agreement, dated July 20, 2021, between the parties or a breach of any of the provisions of the Act.

These particulars comprise the full and final settlement of all claims made by the Tenants in the Application. The parties gave verbal affirmation at the hearing that they understood and agreed to the above terms as legal, final, and binding, which settle all aspects of claims made by the Tenants in the Application.

Conclusion

As the parties have reached a full and final settlement of all the claims set out in the Application, I make no factual findings about the merits of the Application.

To give effect to the settlement reached between the parties, and as discussed at the hearing, I grant the Tenants a Monetary Order for \$500.00 effective May 31, 2023. This Order may be filed and enforced in the Small Claims Division of the Provincial Court of British Columbia.

The Tenants are provided with the above Order on the above terms and the Landlords must be served by the Tenants with this Order as soon as possible. If the Landlords pay the \$500.00 to the Tenants prior to May 31, 2023, then the above Order will be void.

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: May 5, 2023

Residential Tenancy Branch