



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MND-S, MNDC-S, FF

### Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for compensation for alleged damage to the rental unit by the tenants, compensation for a monetary loss or other money owed, authority to keep the tenants' security deposit to use against a monetary award, and recovery of the cost of the filing fee.

The landlord and the tenants attended and were affirmed.

Thereafter, preliminary matters were discussed prior to a hearing on the merits of the application.

The landlords' monetary claim listed on their application was \$1.00 for alleged damages, and \$1.00 for other compensation, for a total of \$2.00. Additionally, the landlord did not provide a description of their claim. The filing fee was also claimed.

The landlord's evidence, which was submitted at various times, including September 9, 2022, October 28, 2022, and May 2, 2023, suggested that their claim would be substantially more than \$2.00. However, the landlord never amended their monetary claim from the date of filing the application on September 9, 2022, through the date of the hearing on June 5, 2023. The landlord said they were informed the claim could be left open.

Additionally, the landlord was unclear of the date they served the tenants with their application.

The tenants asked for their security deposit of \$1150 be doubled and returned. Thereafter, testimony was taken on the matter of the tenants' security deposit.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

Is the landlord entitled to monetary compensation from the tenants?

If not, are the tenants entitled to a doubling of their security deposit?

#### Background and Evidence

For the reasons noted below, the landlord was informed their application was being dismissed, with leave to reapply.

As to the tenants' security deposit, the tenant submitted that they provided their forwarding address in an email on August 31, 2022 as the landlord moved and did not give the tenants an address. Further, the parties communicated by email primarily during the tenancy. The tenants also said they provided a forwarding address at the move-out inspection.

The tenants said the landlord would not sign the move-out condition inspection report (Report) and the landlord did not provide the tenants with the move-in Report until shortly before the tenancy ended. The tenants submitted they did not receive a copy of the move-out Report.

The landlord said they learned the tenants' new address used in their application for service of the dispute resolution application because they knew someone who lived in the building where the tenants moved.

#### Analysis

At the outset of the hearing, the landlord was advised that their application for monetary compensation was being refused, pursuant to section 59(5)(c) of the Act, because the application did not provide sufficient particulars of the claim for compensation, as is required by section 59(2)(b) of the Act.

From a review of the landlords' application and evidence, I find the landlords failed to provide a breakdown or particulars of the claim as to how the landlords arrived at the \$2.00 listed. Apart from that, it was clear and confirmed by the landlord that their claim was not \$2.00.

The landlord was informed that their application was being refused, pursuant to section 59(5)(c) of the Act because I find that the application provided insufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the Act.

Additionally, Rule 2.5 states that the applicant **must** submit a detailed calculation of any monetary claim being made and copies of all other documentary and digital evidence to be relied on in the proceeding. The applicants are provided with instructions in the application package as to these evidence requirements. The RTB provides monetary order worksheet forms parties may use to detail their monetary claim.

The objective of the Rules is to ensure a fair, efficient, and consistent process for resolving disputes for landlords and tenants.

I find that proceeding with the monetary claim at this hearing would be prejudicial and procedurally unfair to the other party, as the absence of particulars that sets out how the landlords arrived at the amount being claimed makes it difficult, if not impossible, for the other to adequately prepare a response to the claim.

Both parties have the right to a fair hearing and the respondents are entitled to know the full particulars of the claim made against them at the time the applicant submits their application in order to prepare a response.

I therefore **dismiss** the landlords' application for monetary compensation, **with leave to reapply**.

I do not grant the landlords recovery of the cost of the filing fee as I have not considered the merits of their application.

Leave to reapply does not extend any applicable time limitation period.

Tenants' security deposit –

As I have refused the landlords' application to retain the tenants' security deposit, I find the tenants' security deposit must be returned.

Tenancy Policy Guideline 17 applies here, which provides the following:

**C. RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH DISPUTE RESOLUTION**

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:

- a landlord's application to retain all or part of the security deposit; or
- a tenant's application for the return of the deposit.

unless the tenant's right to the return of the deposit has been extinguished under the Act<sup>14</sup>. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.

Additionally, Policy Guidelines further state that unless the tenant has specifically waived the doubling of the deposit, the arbitrator will order the return of double the deposit if the landlord has claimed against the deposit for damage to the rental unit and the landlord's right to make such a claim has been extinguished under the Act.

The tenants claim that the landlord did not sign the move-out Report and did not give the tenants a copy. The landlord filed a copy of the move-in Report, but not the move-out Report. I find the tenants provided sufficient evidence on a balance of probabilities that the landlord did not sign a move-out Report and provide the tenants with a copy within the required time. The landlord's evidence included only the move-in Report, but not the move-out Report, which I find supports that tenants' claim the landlord did not sign or give the tenants a move-out Report. Additionally, the tenants provided a move-out video in which the landlord specifically said they were not signing the move-out Report because the tenants took a picture.

For this reason, I find the landlord extinguished their right to make a claim for damages to the rental unit due to their failure to meet the end of tenancy condition inspection requirements.

Pursuant to section 62(3) of the Act, I order the landlord to return the tenants' security deposit of \$1150, plus interest of \$9.65, immediately.

For the above reasons, I find the security deposit of \$1150 must be doubled.

To give effect to this my finding and this order, I grant the tenants a **monetary order** pursuant to section 67 of the Act for the amount **\$2,309.65**, or the tenants' security deposit of \$1150, doubled, plus interest on the original security deposit of \$9.65.

Should the landlord fail to pay the tenants this amount without delay, the monetary order must be served upon the landlords 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 cautioned that costs of such enforcement are recoverable from the landlord.

### Conclusion

The landlord's application is dismissed, with leave to reapply, due to insufficient particulars.

I have ordered the landlord to return the security deposit of \$1150, that the amount must be doubled, and included interest on the original security deposit.

The tenants are granted a monetary order of **\$2,309.65**.

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: June 06, 2023