



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCL-S MNDCL-S FFL

Introduction

This dispute relates to the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- \$4,917.20 monetary claim for damages or other compensation,
- Retain security deposit and pet damage deposit (combined deposits) towards money owed,
- Filing fee.

Those listed on the cover page of this decision attended the teleconference. All participants were either affirmed or promised to tell the truth. The hearing process was explained to the parties, and an opportunity to ask question was provided to all.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

At the outset of the hearing, the landlord was advised that a Monetary Order Worksheet (RTB Form 37) was not completed. In addition, the landlord and counsel were advised that the application was being refused, pursuant to section 59(5)(c) of the Act, as their application failed to set out how the reduced amount of \$3,978.45 was broken down in detail.

The landlord is at **liberty to re-apply** as a result but are reminded to include full particulars of their claim when submitting their application in the "Details of Dispute" section of the application. Furthermore, when seeking monetary compensation, the applicant is encouraged to use the Monetary Order Worksheet available here:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/forms/forms-listed-by-number>

Given the above, I do not grant the recovery of the landlord's filing fee.

As the landlord has claimed against the tenants' \$1,600 in combined deposits, I will address the combined deposits in this decision. The parties agreed that the tenants provided their written forwarding address on August 30, 2022, which was discussed during the hearing.

The landlord did not file claiming towards the tenants' combined deposits until September 20, 2022. The landlord also did not return the \$1,600 owed and continues to hold the combined deposits.

Counsel submits that the landlord was attempting to negotiate with the tenant regarding the combined deposits, which I will address further below.

Analysis

Section 38(1) and 38(6) of the Act apply and state:

Return of security deposit and pet damage deposit

38(1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

(6) If a landlord does not comply with subsection (1), the landlord

(a) **may not make a claim against the security deposit or any pet damage deposit, and**

(b) **must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.**

[emphasis added]

I find the Act does not provide extra time for negotiation related to the section deposit, and that the landlord should have either postmarked the entire \$1,600 combined deposits or claimed against them no later than September 15, 2022, which was a Friday. Instead, the landlord waited until Tuesday, September 20, 2022, to apply for dispute resolution claiming against the combined deposits.

Given the above, I find I must double the entire combined deposits of \$1,600. I grant the tenants **\$3,200** for the double combined deposits as a result. I also add the interest of \$14.19, the interest of which does not double under the Act. This brings the tenants' total monetary order under section 67 of the Act to **\$3,214.19**.

Should the landlord fail to pay the tenants \$3,214.19, the tenants must serve the landlord and may enforce the monetary through the Provincial Court of British Columbia, Small Claims Division.

Conclusion

The landlord's application has been refused pursuant to section 59(5)(c) and 59(2)(b) of the Act.

The landlord is at liberty to reapply. This decision does not extend any applicable time limits under the Act.

The landlord is ordered to return \$3,214.19 to the tenants as described above. This takes care of the combined deposits under the Act, which must be dealt with in this matter as the landlord applied to retain the combined deposits.

This decision will be emailed to both parties at the email addresses confirmed during the hearing. The monetary order will be emailed to the tenants only for service on the landlord only if necessary.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 15, 2023

Residential Tenancy Branch