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***THE CIVIL RESOLUTION TRIBUNAL JURISDICTION OVER RESIDENTIAL  
TENANCY MATTERS ON FIRST NATIONS LANDS***

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The *Civil Resolution Tribunal Act* (the “Act”) permits applicants to file claims before the Civil Resolution Tribunal (the “CRT”) when there is dispute about debts or damages in less or an equal amount prescribed for small claims that arise from breaches of contract<sup>1</sup>.

In a recent CRT Decision, the Applicant made a claim arguing that the Respondents were withholding the damage and pet deposit contrary to the contract terms regarding deposits, that the Respondents should return the deposits, and that the Respondents should pay any additional amount set out in the contract (the “Claim”). In the response to the Claim, the Respondents challenged the jurisdiction of the CRT to hear the Claim considering that the rental unit that was rented to the Applicant and the Applicant’s partner under the contract is located on Cowichan Tribes reserve lands.

The CRT began by assessing if it had jurisdiction to make a determination on the Claim. The CRT indicated that the Applicant provided evidence that indicated that the Cowichan Tribes do not have laws or regulations that apply to residential tenancy matters that could be of assistance to resolve residential tenancy disputes.

Furthermore, the CRT Decision mentions that prior to the Claim, the Applicant’s partner made a dispute application before the Residential Tenancy Branch (the “RTB”) to address the deposit matter, and the RTB clarified that it does not have jurisdiction to determine matters regarding rental units located on reserve lands and that the RTA cannot apply to a right of possession on reserve lands.

The CRT determined that the CRT has jurisdiction to hear this dispute as it involves a contract that was executed in British Columbia. The CRT determined that the Applicant could rely on common law and contract law to file the Claim taking into consideration that the RTB does not have jurisdiction and Cowichan Tribes does not have laws that apply to residential tenancy disputes.

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<sup>1</sup> Civil Resolution Tribunal Act, SBC 2012, c 25, section 118(1)(a)

The issue in the Claim involved in part determining whether the respondents breached the contract by not following its terms about deposits and, if there was a breach whether the Respondents were responsible of returning the Deposit or of paying penalties under the Contract.

According to the *CRT*, the parties executed a contract that incorporated provisions from the *Residential Tenancy Act, SBC 2002, c 78 (the "RTA")* as result those terms were considered to be terms of the contract (the "Contract"). Under the Contract, the Applicant was required to make payment of \$1,000 for security deposit and \$1,000 for pet deposit (the "Deposits"), the Respondents were required to pay interest accumulated on the Deposits during the tenancy, and the Respondents were required to return the Deposits within 15 days after terminating the tenancy unless the Applicant agreed otherwise in writing or the Respondents applied for arbitration to reclaim some or all of the deposits under the *RTA*.

The CRT determined that the tenancy ended on August 31, 2023 (the "End of Tenancy Date"), and that the Applicant provided her forwarding address to the Respondents. Although the Respondents attempted to provide the Applicant with a cheque for the Deposits without interest to the Applicant and that the Applicant refused to accept the cheque, the CRT determined that considering that the Respondents did not apply within 15 days after the End of Tenancy Date for an arbitration to retain the Deposits or sought written authorization from the Applicant to retain the Deposits, that the Respondents were responsible for paying the Deposits, interests over the Deposits until the End of Tenancy Date pursuant to the *Residential Tenancy Regulation, BC Reg 477/2003*, interests over the Deposits after September 15, 2023, pursuant to the *Court Order Interest Act, RSBC 1996, c 79*, and an additional \$1,000 as a penalty for the security deposit. The double deposit penalty regarding the pet deposit was not granted taking into consideration the Respondents' attempt to make payment of the Deposits.

The importance of this decision is that for scenarios where there is a written agreement to rent a rental unit that is located on reserve lands and the First Nation does not have laws or regulations that apply to rental unit disputes, the Tenants or Landlords can rely on common law and contract law to file a claim for residential tenancy matters before the CRT for breach of contract.

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2026

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