Citation: Applicant 18 (Re), 2026 BCSRE 21
Date: 2026-01-13
File No. 25-6054

IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended (the "Act")

AND

IN THE MATTER OF

[BROKERAGE 1]
([Licence Number)

AND

[LICENSEE 1]
([Licence Number)

AND IN THE MATTER OF A CLAIM TO
THE REAL ESTATE SPECIAL COMPENSATION FUND BY

[APPLICANT 18]

SPECIAL COMPENSATION FUND DECISION

[This Decision has been redacted before publication.]

1. [Applicant 18] (the "**Applicants**") bring a claim against the Real Estate Special Compensation Fund (the "**Fund**") with respect to losses they allege occurred in relation to funds allegedly held in trust by [Brokerage 1] ("**[Brokerage 1]**") in relation to rental property management services provided by [Brokerage 1] in regard to a property in Kelowna (the "**Property**"). The Applicants claim that $2,800, being a $1,600 in deposit funds for one lease of the Property and $1,150 in deposit funds for a second lease of the Property, were not properly paid out or transferred to [Brokerage 2] ("**[Brokerage 2]**") when the Applicants' rental property manager, [Licensee 2], transferred from [Brokerage 1] to [Brokerage 2] on September 16, 2024.

2. The following are my reasons regarding the Applicants' claim.

Proceedings

3. On September 4, 2025, a Hearing Officer[1] determined, pursuant to section 63(1) of the *Real Estate Services Act*, SBC 2004, c 42 ("**RESA**"), that a hearing into whether the Applicants had experienced a compensable loss would proceed by way of written submissions.

4. This hearing is held pursuant to section 63(1) of RESA, which sets out that if a claim against the Special Compensation Fund is made, the Superintendent of Real Estate the ("**superintendent**") must consider the claim and may conduct a hearing to determine whether the person making the claim suffered a compensable loss and, if applicable, assess the amount of that loss.

[1] The Superintendent of Real Estate has delegated the statutory powers and duties set out in sections 61 to 67 of RESA to Hearing Officers.

5. This matter is one of more than 20 claims filed in respect of funds allegedly held by [Brokerage 1]. Because of the volume of claims and their similarities, BCFSA Hearings Division ("**Hearings**") issued a series of orders to produce to [Brokerage 1], to [Brokerage 1]'s former managing broker, [Licensee 1], and to [Licensee 2] in relation to the claims. [Licensee 2] responded to those orders with various documents. [Licensee 1] and [Brokerage 1] did not respond to those orders. Once the response deadline had passed on those orders, Hearings then separated those materials into the relevant claims and disclosed all materials on each claim to the respective applicant and to [Brokerage 1] and [Licensee 1]. Along with those materials, Hearings provided a submission schedule for the applicants and [Licensee 1]. The Applicants provided additional materials. [Brokerage 1] and [Licensee 1], despite having the opportunity to make submissions, have not responded.

Issues

6. The issues to be determined are:
    a. Did the Applicants suffer a compensable loss as defined by section 60 of RESA?
    b. If so, what is the amount of that loss?

Applicable Law

Section 60 of RESA defines "compensable loss" as follows:

> **"compensable loss"** means loss suffered by a person in relation to real estate services that is the amount of money that
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> (a) was held or received by
>
> (i) a licensee,
>
> (ii) an officer, director, controlling shareholder or partner of the responsible brokerage,
>
> (iii) an employee of the licensee, of the responsible brokerage or of another related licensee of that brokerage, or
>
> (iv) a person acting in an independent contractor relationship with the licensee, with the responsible brokerage or with a related licensee of that brokerage,
>
> from, for or on behalf of a principal in relation to real estate services, including any amount that is or is intended to be remuneration to a licensee, and
>
> (b) was, as applicable,
>
> (i) misappropriated or wrongfully converted by a person referred to in paragraph (a) (i) to (iv),
>
> (ii) intentionally not paid over or accounted for, by a person referred to in paragraph (a) (i) to (iv), to the person entitled to the money, or
>
> (iii) obtained by the fraud of a person referred to in paragraph (a) (i) to (iv),
>
> but does not include loss that

(c) is claimed by a licensee or former licensee as remuneration to the licensee or former licensee,

(d) was caused by conduct that occurred before section 61 (1) *[claim for compensation]* came into force,

(e) was caused by conduct of a licensee acting under an exemption provided by Part 9 of the rules, or

(f) is prescribed;

7. Section 61 of RESA provides that in order to make a claim for compensation from the special compensation fund, a person must apply in writing to the superintendent within the time limit established by section 61(2), which is set out as follows:

61(2) The time limit for making a claim is 2 years after the earliest of the following:

(a) the date on which the person making the claim became aware that the compensable loss occurred;

(b) if the licence of the responsible brokerage was cancelled or suspended by an order under section 45 (2) (a) *[orders in urgent circumstances relating to licensees]* at any time after the conduct that caused the compensable loss, the date of that cancellation or suspension;

(c) the date the superintendent publishes a notice, in accordance with the regulations, that compensable loss may have occurred.

8. Section 61(1) requires that an application must include the particulars of the conduct on which the claim of compensable loss is based, if the person is relying on a court decision, a copy of the decision, and any other information required by the superintendent.

Background

9. The information before me in this matter includes materials provided by the Applicants in their original claim and during this written hearing and materials provided by [Licensee 2], a licensee who was licensed with [Brokerage 1] from January 24, 2020 until September 16, 2024, when she transferred her license to [Brokerage 2], where she is currently licensed.

10. The following is not a recitation of all the evidence and information before me. I have reviewed all the evidence and provide the following as context for my reasons.

Regulatory Background

11. [Brokerage 1] and [Licensee 1] have been the subject of several regulatory actions by the superintendent over the past few years. These include, but are not limited to, an order cancelling [Licensee 1]'s managing broker licence, but allowing him to continue to be licensed as a representative licensee, made September 7, 2023 and orders made April 24, 2025 to suspend [Brokerage 1]'s real estate license and freeze [Brokerage 1]'s accounts under section 46 of RESA: *[Citation 1]*; *[Citation 2]*. Although those orders do not relate specifically to this claim, these orders provide some context for the present claim. As a result of the April 24, 2025 freeze order, [Brokerage 1]'s accounts remain frozen.

The Claimed Funds

12. Documents provided by [Licensee 2] indicate that all email transfers sent to the email address she used while she was licensed at [Brokerage 1] were automatically deposited into [Brokerage 1]'s bank account at [Bank 1].

13. On January 24, 2020, the Applicants and [Licensee 2], on behalf of [Brokerage 1], signed a property management agreement whereby [Brokerage 1] agreed to provide rental property management services to the Applicants. [Licensee 2] would act as designated agent for the Applicants under the agreement.

14. On March 24, 2024, [Licensee 2], on behalf of the Applicants, and [Tenant 1] and [Tenant 2] signed a residential tenancy agreement for the Property (the "**Fall Lease**"). The Fall Lease was a fixed term lease set to run from September 1, 2024 to April 30, 2025. The Fall Lease required [Tenant 1] and [Tenant 2] to pay a security deposit of $1,150 by March 28, 2024.

15. On March 26, 2024, [Tenant 1] paid $575, being half the security deposit required under the Fall Lease, to [Brokerage 1].

16. On March 28, 2024, [Tenant 2] paid $575, being half the security deposit required under the Fall Lease, to [Brokerage 1].

17. On June 5, 2024, [Licensee 2], on behalf of the Applicants, and [Tenant 3] signed a residential tenancy agreement for the Property (the **"Summer Lease**"). The Summer Lease was a fixed term lease set to run from June 10, 2024 to August 30, 2024. The Summer Lease required [Tenant 3] to pay a security deposit of $1,100 and a pet damage deposit of $550 by June 7, 2024.

18. On June 7, 2024, [Tenant 4] paid $1,650, being the security deposit of $1,100 plus the pet deposit of $550 required under the Summer Lease, to [Brokerage 1].

19. On August 23, 2024, the Applicants terminated their management agreement with [Brokerage 1] effective September 25, 2024.

20. On December 19, 2024, [Brokerage 2] sent a letter to various clients who had transferred from [Brokerage 1] along with [Licensee 2], including the Applicants, to advise that it had not received security deposit funds from [Brokerage 1].

21. On or about March 16, 2025, [Brokerage 2] paid out $1,175.97 to [Tenant 1] and [Tenant 2], being the return of the deposit they had paid plus interest of $25.97 calculated from the dates of [Tenant 1] and [Tenant 2] paid the deposit to March 15, 2025.

22. The Applicants state that multiple requests were made for [Brokerage 1] to transfer the deposit funds held pursuant to the Summer Lease and the Fall Lease to [Brokerage 2], but no payment was made. [Brokerage 1] and [Licensee 1] have had the opportunity to respond to this proceeding but have not done so. I therefore find that multiple requests were made for the transfer of the deposit funds under the Summer Lease and the Fall Lease and that [Brokerage 1] did not transfer the funds.

Reasons and Decision

23. I am satisfied that the evidence supports a finding that the Applicants suffered a compensable loss as defined by section 60 of RESA. I assess the amount of that loss to be equal to a total amount of $2,825.97. My reasons for having reached these conclusions are set out below.

Compensable Loss

24. To establish a compensable loss has occurred, the Applicants must show that an amount of money was held or received by the persons contemplated in subparagraph (a) of the definition of "compensable loss" for or on behalf of a principal in relation to real estate services; they must show it was misappropriated, wrongly converted, intentionally not paid over to the person entitled to it, or obtained by the person by fraud as required by subparagraph (b) of the definition; and they must show that the loss does not fall within the scope of excluded of subparagraphs (c)-(f) of the definition.

Held or Received

25. The evidence establishes that [Brokerage 1] received the security deposit of $1,150 under the Fall Lease by way of two payments of $575 on March 26 and 28, 2024.

26. The evidence establishes that [Brokerage 1] received the security and pet deposits under the Summer Lease in the total amount of $1,650 on June 7, 2024.

27. I note that the Applicants have not claimed for interest on the deposit repayment under the Fall Lease made in March 2025. There is no direct evidence before me that [Brokerage 1] held that interest amount; however, real estate brokerages are required to hold trust funds in interest bearing accounts pursuant to section 29 of RESA. Section 29(1) of RESA required brokerages to hold interest accrued on those funds in trust for the Real Estate Foundation of British Columbia (the "**Foundation**") and must pay the interest to the Foundation. Section 29(2) of RESA exempts brokerages from the requirement to hold funds in trust for the Foundation where they are held pursuant to the *Residential Tenancy Act*, SBC 2002, c 78. Given [Brokerage 1] and [Licensee 1] did not respond to this proceeding, despite having the opportunity to do so, I conclude that [Brokerage 1] likely did hold the deposit funds in an interest bearing trust account pursuant to section 29(2) of RESA and therefore held the $25.97 in interest on the Fall Lease security deposit.

Misappropriated, Converted, Withheld, or Obtained by Fraud

28. The evidence establishes that [Brokerage 1] failed to pay over the claimed deposit funds to [Brokerage 2] when requested. Given [Licensee 1] and [Brokerage 1] have had the opportunity to respond to this proceeding and have failed to do so, I find that the failure to pay over the funds to [Brokerage 2], as required, was intentional.

Exemptions

29. None of the exclusions to compensable loss set out in sections 60(c) through 60(f) apply in this case.

30. I find that the Applicants suffered a compensable loss.

Assessment of Amount of Claim

31. Having concluded that the Applicants suffered a compensable loss, section 63(1)(a) requires that I assess the amount of that loss.

32. In my view, the role of the superintendent as set out in section 63(1) of RESA is clear. Where the superintendent determines that a compensable loss exists, the superintendent must assess the amount of that compensable loss. Although that assessment can be informed by the amount claimed, the decision as to the amount of the loss lies with the superintendent. The fact that a claimant may, in making a claim for compensation, be in error as to the actual amount of the loss they have experienced, does not affect the superintendent's roles in making the assessment of the amount of a compensable loss.

33. I find that the loss should be assessed at $2,825.97. This amount comprises the deposits paid under the Summer Lease and the Fall Lease and the interest paid out to the tenants under the Fall Lease. Although the Applicants did not claim for the interest, I am able to assess the loss at a higher amount where demonstrated.

Conclusion

34. I find that the Applicants experienced a compensable loss as contemplated by section 60 of RESA.

35. I assess the amount of that loss as $2,825.97. A certificate specifying the amount of the compensable loss will be issued.

Dated this 13th day of January, 2026, at North Vancouver, British Columbia

"Original signed by Gareth Reeves"

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Gareth Reeves
Hearing Officer

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CERTIFICATE OF COMPENSABLE LOSS

In the matter of a claim for compensation to the Real Estate Special Compensation Fund by [Applicant 18], pursuant to section 63(1)(a) of the *Real Estate Services Act*, the Superintendent:

a. determined that [Applicant 18] suffered a compensable loss; and
b. assessed the amount of the compensable loss in the amount of $2,825.97.

This Certificate is issued by the Superintendent pursuant to section 64 of the *Real Estate Services Act.*

Dated this 13th day of January, 2026, at North Vancouver, British Columbia

"Original signed by Gareth Reeves"

_____
Gareth Reeves
Hearing Officer