



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This hearing dealt with applications from the landlord and the tenant pursuant to the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- a monetary order for damage to the rental unit pursuant to section 67; and
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

The tenant applied for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38; and
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenant confirmed that she received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on June 16, 2012. The landlord confirmed that on July 27, 2012, she received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail. I am satisfied that both parties served these documents to one another in accordance with the *Act*.

The tenant testified that she had received a copy of the landlord's written and photographic evidence package. The landlord said that she had not received a copy of the tenant's written and photographic evidence package. The tenant testified that she sent the landlord a copy of her written and photographic evidence packages, the latter of which was downloaded onto a USB flash drive, by registered mail on August 13, 2012. She provided the Canada Post Tracking Number to confirm this mailing.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy? Which of the parties is entitled to the tenant's pet damage and security deposits? Is the tenant entitled to a monetary award pursuant to section 51(2) of the *Act* as a result of the landlord's alleged failure to move into the rental unit within a reasonable period after

the effective date of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice)? Is the tenant entitled to recover her filing fee?

### Background and Evidence

This tenancy commenced as a one-year fixed term tenancy on or about June 15, 2009. When the initial term expired, the tenancy continued as periodic tenancy until the tenant vacated on June 1, 2012. Monthly rent was set at \$1,850.00, payable in advance on the first of each month. The landlord continues to hold the tenant's pet damage deposit of \$925.00 and security deposit of \$925.00, both paid on or about June 8, 2009.

Although the parties agreed that a joint move-in condition inspection was conducted, they disagreed as to whether the landlord produced a copy of a report of that inspection. The landlord and her co-landlord testified that they produced a report of the joint move-in condition inspection and gave a copy to the tenant. They testified that they have been unable to locate a copy of that report. The tenant testified that she never received a joint move-in condition inspection report. Both parties agreed that a joint move-out condition inspection was conducted on June 1, 2012, and that a copy of the move-out condition inspection report was provided to the tenant. The tenant entered into written evidence a copy of the joint move-out condition inspection report.

The landlord's application for a monetary award of \$3,280.00 included:

- \$380.00 in estimated cleaning costs;
- \$500.00 in estimated carpet repair costs; and
- \$2,400.00 in estimated structural repairs.

At the hearing, the landlord testified that she had spent \$2,000.00 to repaint the premises following this tenancy and \$3,000.00 to replace the damaged carpet with laminate flooring. Although she said that she had receipts for these expenditures, she did not enter them into written evidence. Her claim of \$3,280.00 was based solely on estimates she made when she filed her application. The tenant's application for a monetary award of \$5,000.00 included a request to obtain \$1,850.00 for her deposits and \$3,700.00 for the equivalent of two month's rent for the rental unit. The tenant maintained that the landlord had not moved into the rental unit within a reasonable period of obtaining the premises in accordance with the 2 Month Notice. The landlord testified that she and her daughter moved into the rental unit on July 15, 2012.

### Analysis

Pursuant to section 63 of the *Act*, the dispute resolution officer 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 hearing, the parties discussed the issues between them, engaged in a conversation and achieved a resolution of their dispute.

Both parties agreed to settle all issues arising out of this tenancy and their applications under the following terms:

1. Both parties agreed that all monetary issues arising out of this tenancy will be resolved by the landlord's agreement to return \$925.00 from the tenant's security deposit by August 27, 2012.
2. Both parties agreed that the landlord will retain the tenant's pet damage deposit.
3. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues arising out of this tenancy and that neither party will initiate any further applications for dispute resolution arising out of this tenancy.

### Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenant's favour in the amount of \$925.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord does not abide by the terms of the above settlement. The tenant is provided with these Orders in the above terms and the landlord must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

As per the terms of the above settlement agreement, I order that the landlord retain the tenant's pet damage deposit plus applicable interest. No interest is payable over this period.

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: August 20, 2012

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Residential Tenancy Branch