



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The landlord applied for authority to retain the tenant's security deposit and pet damage deposit, and for recover the filing fee.

An agent for the landlord (the "agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide his evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent testified that the tenant was served with the Notice by registered mail on August 17, 2012 to the forwarding address provided by the tenant during their last arbitration hearing on August 1, 2012. The agent testified that the tenant was received by the tenant according to the online tracking website. I find the tenant was served in accordance with the *Act*.

### Issue to be Decided

- What should happen to the security deposit and pet damage deposit under the *Act*?

### Background and Evidence

The agent testified that a one year fixed term tenancy began on August 12, 2005 and reverted to a month to month tenancy after July 30, 2006. Monthly rent in the amount of \$800.00 was due on the first of the month and was increased over the course of the tenancy to \$820.00. The tenant paid a security deposit of \$400.00 and a pet damage deposit of \$400.00 at the start of the tenancy on August 12, 2005, which the landlord continues to hold.

The tenancy ended on November 14, 2011 when the tenant vacated the rental unit. According to the agent, the tenant failed to provide a forwarding address to the landlord until August 1, 2012, when the forwarding address was provided during an arbitration hearing.

The landlord applied for a monetary order in the amount of \$800.00, however, failed to provide a detailed breakdown of that amount. The agent stated that the amount of \$800.00 was the total of the security deposit and pet damage deposit that the landlord was seeking to retain. Later in the hearing, the agent stated that the \$800.00 was for unpaid rent for the month of November 2011. The agent then clarified that rent was actually \$820.00. The landlord did not apply for a monetary order for unpaid rent.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Analysis

Based on the documentary evidence, the oral testimony, and on the balance of probabilities, I find the following.

**Landlord's claim to retain the security deposit and pet damage deposit** – The landlord has applied to retain the security deposit of \$400.00 and the pet damage deposit of \$400.00. The landlord did not apply for a monetary order for unpaid rent. The application of the landlord cannot be amended during the hearing as that would prejudice the tenant. The landlord has not specified a reason in their application or provided details of their dispute and as a result, **I dismiss** the landlord's application to retain the security deposit and pet damage deposit **without leave to reapply**.

The security deposit of \$400.00 and pet damage deposit of \$400.00 were paid by the tenant on August 12, 2005, for a total of \$800.00 which has accrued \$28.32 in interest. As a result, the landlord continues to hold **\$828.32** comprised of the tenant's security deposit and pet damage deposit including interest.

As the landlord's application did not have merit, I **do not** grant the landlord recovery of the filing fee.

**Monetary Order** – I find that the tenant is entitled to the return of their full security deposit and pet damage deposit with interest in the amount of \$828.32. I **order** the landlord to return the security deposit and pet damage deposit with interest in the

amount of **\$828.32** to the tenant within 15 days of receiving this decision. Should the landlord fail to return the deposits as ordered, **I grant** the tenant a monetary order in the amount of \$828.32. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

**I order** the landlord to return the security deposit and pet damage deposit with interest in the amount of \$828.32 to the tenant within 15 days of receiving this decision.

Should the landlord fail to return the deposits as ordered, **I grant** the tenant a monetary order in the amount of **\$828.32**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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: October 31, 2012

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Residential Tenancy Branch