



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD, MND, FF

### **Introduction**

This hearing was convened in response to cross-applications by the parties for dispute resolution.

The tenant filed on September 18, 2012 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order for *the remaining* deposits (\$400.10) - Section 38
2. An Order to recover the filing fee for this application (\$50) - Section 72.

The landlord filed on September 14, 2012 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows, *as amended in the hearing by the landlord*:

1. A monetary Order for damages (\$150.00) – Section 67
2. An Order to retain a portion of the deposits (\$125.94) - Section 38
3. An Order to recover the filing fee for this application (\$50) - Section 72.

Both parties attended the hearing and were given a full opportunity to present relevant evidence and make relevant submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

### **Issue(s) to be Decided**

Is the landlord entitled to the monetary amounts claimed?

Is the tenant entitled to the monetary amounts claimed?

### **Background and Evidence**

The tenancy began on May 01, 2009. At the outset of the tenancy the landlord collected security and pet damage deposits in the sum amount of \$975.00. The tenant vacated August 30, 2012. The parties agree that they mutually performed move in and

move out inspections in accordance with the Act, and that at the end of the tenancy the parties did not agree on the administration of the deposits. The landlord soon after determined that some deficiency in the rental unit required a repair and sought approval from the tenant to attribute a portion of the balance held in trust (\$400.10) to a portion of that repair. The tenant deferred the decision to their representative, "Sean", and Sean approved deduction of \$150.00 from the remaining deposits held by the landlord. The tenant does not dispute the landlord's evidence in regard to this portion of their claim. The landlord seeks to retain \$150.00.

The landlord also seeks the cost of electric and gas utilities in the amount of \$25.84, with which the tenant agrees.

The landlord further seeks recovery of a portion (1/3) of the tenant's utilities refund, based on the fact that during the tenancy the landlord paid 1/3 of the utilities based on an equal payment plan. Upon reconciliation of the account it contained a credit. The landlord argues that the landlord is thus entitled to 1/3 of the credit amount – on 1/3 of the utilities paid. The landlord seeks \$100.10

### **Analysis**

On the preponderance of the evidence submitted and the testimony of the parties, I find as follows:

I find that the landlord has provided sufficient evidence to establish that they are entitled to the agreed amount of \$150.00 for damages to the unit, \$100.10 as a refund on utilities paid, and \$25.84 as agreed by the parties. As a result, **I grant** the landlord **\$275.94**, without leave to reapply. The landlord is further entitled to recover costs of \$50 for filing their application.

The tenant is entitled to the remaining amount of their deposit and is therefore further entitled to recover costs of \$50 for filing their application.

As both parties are entitled to their filing fees, the fees calculations cancel out one another. Therefore,

### *Calculation for Monetary Order*

Landlord's award	\$275.94
<b>Total Monetary Award for tenant</b>	<b>(\$124.16)</b>

### **Conclusion**

**I Order** that the landlord retain the remaining deposits only in the amount of \$275.94 in full satisfaction of their claim and I grant the tenant an Order under Section 67 of the Act for the balance of **\$124.16**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision and Order are final and binding on both parties.**

*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: December 05, 2012

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Residential Tenancy Branch