



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An order to retain all or part of the security deposit – Section 38; and
2. An Order to recover the filing fee – Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by personal service at the Landlord’s office on January 11, 2012, 2012 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to retain all or part of the security deposit?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

A first tenancy started on August 1, 2011 and a second tenancy of a different unit in the same building started November 1, 2011. Rent of \$1,550.00 was payable for the second tenancy. At the outset of the first tenancy the Landlord collected \$675.00 as a security deposit and \$250.00 as a pet deposit. These amounts were transferred to the second tenancy. No move-in inspection was conducted by the Parties.

The Landlord states that the tenancy agreements for both tenancies were provided as evidence for this Hearing by fax. The Landlord states that the tenancy agreements include an addendum that provides utilities to the Tenants up to the amount of \$20.00 and that any utility costs over this amount are payable by the Tenant. The Landlord states that the Tenant was provided with copies of the utility bills for the duration of both tenancies but failed to pay the utilities owing. The Landlord claims \$712.13 for the cost of utilities. The Landlord states that the addendum to the tenancy agreement instructs the Tenants not to clean the unit at the end of the tenancy and provides that the Tenant will pay \$125.00 for the cost of this cleaning at the end of the tenancy.

### Analysis

Section 23 of the Act requires that upon the start of a tenancy, a landlord and tenant must together inspect the condition of a rental unit on the possession date for that unit, or on another mutually agreed date. Section 24(2) of the Act provides that where a Landlord does not complete and give the tenant a copy of a condition inspection report, the right to claim against that deposit for damage to the residential property is extinguished. Based on the Landlord's evidence that no move-in condition inspection was conducted, I find that the Landlord's right to claim against the security deposit for cleaning has been extinguished and I dismiss this part of the claim. Based on the undisputed evidence of the Landlord that the Tenant did not pay the utilities, I find that the Landlord has substantiated their claim to **\$712.13**. As the Landlord has been substantially successful with its application, I find that the Landlord is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$762.13**. I order the Landlord to deduct this amount from the combined security and pet deposit of **\$925.00** plus zero interest and to return the remaining **\$162.87** to the Tenant forthwith.

### Conclusion

**I order** that the Landlord retain \$762.13 from the **deposit** and interest of \$925.00 in full satisfaction of the claim and I grant the Tenant an order under Section 67 of the Act for

the remaining amount of **\$167.87**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: April 02, 2013

---

Residential Tenancy Branch

