



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for unpaid and/or loss of rent; and, authorization to retain all or part of the security deposit and/or pet deposit. Both parties appeared at the hearing and were provided an opportunity to be heard

At the commencement of the hearing, the tenants requested the female tenant's name be changed to reflect her married name. I have made the change as requested.

I determined that the Branch and the tenants were not served with the landlord's evidence package; however, both parties confirmed they had their copies of the relevant documents and I permitted them to read relevant sections of the documentation to me.

The landlord requested the application be amended to reflect the landlord was no longer pursuing the tenants for unpaid and/or loss of rent but wished to recover liquidated damages. The tenants acknowledged their tenancy agreement provides for a liquidated damage clause and read it to me during the hearing.

### Issue(s) to be Decided

1. Is the landlord entitled to recover liquidated damages from the tenants?
2. Disposition of the security deposit and pet deposit.

### Background and Evidence

The parties executed a written tenancy agreement on February 23, 2013 for a tenancy set to commence May 1, 2013 and expire on April 30, 2014. The tenants paid a security deposit of \$700.00 and a pet deposit of \$700.00. The tenancy agreement provides that the monthly rent is \$1,400.00. The tenant agreement contains a liquidated

damages clause permitting the landlord to charge liquidated damages in the event the tenants end the tenancy before the expiry of the fixed term.

On April 5, 2013 the landlord received written notice from the tenants that they did not intend to move into the rental unit. The landlord filed this application on April 15, 2013 and still holds the security deposit and pet deposit. The landlord's original claim was for \$1,400.00 for loss of rent. However, the landlord was able to re-rent the unit starting May 4, 2013 and seeks to recover liquidated damages from the tenants in the amount of \$700.00.

Upon consideration of the landlord's amended claim and discussion of certain obligations under the Act and tenancy agreement the tenants were agreeable to compensating the landlord the amount claimed for liquidated damages.

The landlord requested recovery of the \$50.00 filing fee paid for this application to which the tenants agreed to pay.

### Analysis

Based upon everything presented to me and the tenant's agreement to pay liquidated damages and the filing fee to the landlord I award the landlord compensation of \$750.00 as requested. I authorize the landlord to deduct this amount from the deposits the landlord holds and I order the landlord to return the balance of \$650.00 to the tenants without further delay.

As provided under Residential Tenancy Policy Guideline 17: *Security Deposit and Set-Off* I provide the tenants with a Monetary Order in the amount of \$650.00 to serve and enforce in the event the landlord does not fulfill the above order in a reasonable amount of time.

### Conclusion

The landlord has been authorized to deduct \$750.00 from the tenants' deposits and is ordered to return the balance of \$650.00 to the tenants without delay. The tenants have been provided a Monetary Order in the amount of \$650.00 to ensure payment is made.

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: July 11, 2013

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Residential Tenancy Branch

