



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order authorizing her to retain the security deposit in partial satisfaction of an order granted by this office. Despite having been served with the application for dispute resolution and notice of hearing sent via registered mail on July 26, the tenants did not participate in the conference call hearing.

### Issue to be Decided

Should the landlord be permitted to retain the security deposit?

### Background and Evidence

The landlord gave evidence that in she applied for an order of possession and a monetary order in July 2013 and that those orders were granted in a decision issued on July 12, 2103. The landlord wishes to retain the security deposit in partial satisfaction of the claim.

### Analysis

Section 38(3) of the Act provides as follows:

38(3) A landlord may retain from a security deposit or a pet damage deposit an amount that

38(3)(a) the director has previously ordered the tenant to pay to the landlord, and

38(3)(b) at the end of the tenancy remains unpaid.

While the award made on July 12, 2013 did not address the security deposit as the landlord chose to follow the direct request process which does not permit a claim

against the security deposit, section 38(3) of the Act permits the landlord to apply the security deposit to the award.

The landlord may retain the security deposit pursuant to section 38(3) and does not require an additional order from this office. As the landlord's application was unnecessary, I find that she should bear the cost of the filing fee paid to bring the application.

### Conclusion

The landlord may retain the security deposit. The landlord will bear the cost of the filing fee.

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: October 31, 2013

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Residential Tenancy Branch

