



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

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

The Tenant applied on March 11, 2014 for:

1. An Order for the return of the security deposit - Section 38; and
2. A Monetary Order for compensation or loss - Section 67.

The Landlord applied on April 10, 2014 for:

1. A Monetary Order for damages to the unit - Section 67; and
2. A Monetary Order for compensation – Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy started in April 2012 and ended on January 31, 2014. Rent of \$700.00 was payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$350.00 as a security deposit. The Tenant provided its forwarding address in writing to the Landlord on February 19, 2014. No move-in condition

inspection or report was completed. The Parties mutually conducted a move-out inspection and report on April 10, 2014 however no copy of an inspection report from was provided as evidence.

The Tenant states that the Landlord has not returned their security deposit and claim \$700.00.

The Landlord states that the Tenants left the unit unclean and damaged and claims as follows:

- \$200.00 for a damaged window sill. The Landlord states that the Tenants glued items to the sill and when they were removed by the Tenants part of the gyproc was torn. The Landlord states that the repairs were too costly so the Landlord painted over the damaged area, the size of which was approximately 8" x 30". The Landlord claims the amount for the cost of repairing the gyproc and not for painting the area;
- \$184.00 for supplies and \$112.00 for the labour costs to repair the entry door that the Landlord states was dented by the Tenant. The Landlord states that the door would close but not properly;
- \$700.00 for the loss of rental income. The Landlord states that as the door was damaged they could not rent the unit and had to stop advertising until it was replaced. The Landlord states that the door replacement was initially priced at \$1,200.00 and that it took until March 6, 2014 to find the most economical replacement.

The Tenant states that the window sill was damaged from a previous flood from the upper unit. The Landlord states that after the flood occurred the damages were repaired by a reputable company that would not have missed the window sill.

The Tenant states that the door frame was dented but that there was nothing wrong with the door at move-out. The Tenant states that the Tenants asked the Landlord to

conduct a move-out inspection on January 31, 2014 but that the Landlord refused. The Tenant denies that they caused any lost rental income.

### Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Based on the undisputed evidence that the Tenants provided their forwarding address on February 19, 2014 I find that the Landlord failed to make its claim later than 15 days from this date and that the Landlord is therefore required to repay the Tenant double the security deposit plus zero interest in the amount of **\$700.00**.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Section 21 of the Regulations provides that a duly completed inspection report is evidence of the condition of the rental property, unless either the landlord or tenant has a preponderance of evidence to the contrary. Accepting the Tenant's credible evidence that the Landlord refused to conduct a move-out inspection at the time of move-out and considering that no copy of the later inspection report was provided as evidence, I find that the Landlord has failed to substantiate that the Tenant damaged the door. Given the Tenant's evidence that there was some minor damage to the frame, I find that the Landlord has only substantiated a nominal entitlement of **\$50.00**. Given the lack of the move-out inspection evidence and considering the Tenant's evidence of damage from a previous flood, I find that the Landlord has failed to substantiate its claim for damages to the window sill and I dismiss this claim. As the Landlord has failed to substantiate that the Tenant caused the damage to the door, I dismiss the Landlord's claim for lost rental income while

searching for its replacement. AS the Landlord's claim has met with minimal success, I dismiss the claim for recovery of the filing fee.

Deducting the Landlord's entitlement of **\$50.00** from the Tenant's entitlement of **\$700.00** leaves **\$650.00** owed by the Landlord to the Tenants.

#### Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$650.00**. 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: June 26, 2014

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Residential Tenancy Branch

