



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution filed on May 11, 2015 seeking to retain the Tenant's security deposit.

The hearing was conducted via teleconference and was attended by two agents for the Landlord, hereinafter referred to as Landlords. The application listed one corporate Landlord; therefore, for the remainder of this decision, terms or references to the Landlord importing the singular shall include the plural and vice versa, except where the context indicates otherwise

No one was in attendance on behalf of the Tenant. The Landlords provided affirmed testimony that the Tenant was served notice of this proceeding and their application by registered mail on May 11, 2015 and a second copy was sent on September 11, 2015 listing the corrected unit number.

Based on the undisputed evidence from the Landlords I find that the Tenant was sufficiently served notice of this hearing in accordance with Section 89(1) of the *Act*. The Tenant is deemed to have received the Notices on May 16, 2015 and September 16, 2015 five days after they were mailed, pursuant to section 90 of the *Act*. Therefore, I continued in absence of the Tenant.

### Issue(s) to be Decided

Has the Landlord proven entitlement to retain the Tenant's security deposit?

### Background and Evidence

The Landlord submitted evidence that the Tenant entered into a fixed term written tenancy agreement that began on October 15, 2014 and was scheduled to end on October 31, 2015. Rent of \$1,500.00 was payable in advance on the first of each month and on September 30, 2014 the Tenant paid \$775.00 as the security deposit.

On March 31, 2015 the Tenant served the Landlord with notice to end the tenancy effective April 30, 2015. The Tenant's notice included her forwarding address.

The move in condition inspection report was completed in the presence of both parties on October 15, 2014. The Tenant was given two opportunities to attend a move out inspection and a final notice of inspection was issued for April 29, 2015. The Tenant vacated the rental until sometime in mid-April and did not return to attend the move out inspection.

The Landlord conducted the move out inspection in absence of the Tenant on April 29, 2015. When the Landlord entered the unit she found the carpets and deck had been left unclean; double sided tape was stuck to many walls; one set of keys was on the counter; and the second set of keys were located on the floor inside the rental unit. The Landlord now seeks compensation equal to the \$775.00 security deposit even though they suffered losses in excessive of \$1,244.15.

In support of their application the Landlord submitted documentary evidence which included, among other things, copies of: the tenancy agreement; the Tenant's notice to end tenancy; photographs of the rental unit taken on April 29, 2015; move in and move out condition report forms; a \$759.15 contractor's invoice for cleaning the carpets and the deck; and a quote of \$485.00 to remove the tape from the walls and patch them.

### Analysis

The *Residential Tenancy Act* (the *Act*), stipulates provisions relating to these matters as follows:

Section 37(2) 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; and must return all keys to the Landlord.

Section 21 of the Regulations provides that In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

Section 7 of the Act provides as follows in respect to claims for monetary losses and for damages made herein:

- 7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 72 (2)(b) provides that if the director orders a tenant to a dispute resolution proceeding to pay any amount to the landlord, including an amount under subsection (1), the amount may be deducted from any security deposit or pet damage deposit due to the tenant.

**After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:**

I accept the Landlord's undisputed evidence that the Tenant left the rental unit and property unclean requiring repairs in breach of section 37 of the *Act*. The Tenant's breach caused the Landlord to suffer a loss in excess of \$1,244.15. Accordingly, I grant the Landlord's application to retain the Tenant's \$775.00 security deposit plus \$0.00 interest as full satisfaction of their claim, pursuant to sections 7, 67, and 72 of the *Act*.

#### Conclusion

The Landlord has succeeded with their application and given authority to retain the Tenant's security deposit as full satisfaction of their claim.

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 21, 2015

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Residential Tenancy Branch

