



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, FF

### Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$1550 for double the security deposit.
- b. An order that the tenant recover the cost of the filing fee

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$1400.16 for damages and the failure to clean
- b. An order to retain the security deposit
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party. The landlord testified she faxed documents to the Residential Tenancy Branch including a Condition Inspection Report, 4 invoices and a monetary order worksheet. Those documents had not reached my file. The tenant acknowledged receipt of those documents. The parties gave testimony with respect to those documents. I ordered the landlord be permitted to re-submit those documents. The parties acknowledged that these documents do not include photographs of the rental unit or witness statements. The landlord faxed these documents and I received them within a couple of hours of the end of the hearing. All evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenant was sufficiently served on the landlord by mailing, by registered mail to where the landlord carries on business on September 15, 2015. The Application for Dispute Resolution/Notice of Hearing filed by the Landlord was served on the Tenant by mailing, by registered mail to where the Tenant resides on October 1, 2015.

#### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?
- c. Whether the landlord is entitled to A Monetary Order and if so how much?
- d. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

#### Background and Evidence

The parties entered into a month to month written tenancy agreement that provided that the tenancy would start on March 17, 2015. The rent is \$1550 per month payable on the first day of each month. The tenant paid a security deposit of \$775 at the start of the tenancy. The tenancy ended on July 31, 2015.

The Tenant testified he gave his forwarding address in writing to the Receptionist of the Landlord on August 18, 2015. The landlord failed to return the security deposit. The Agent for the landlord testified she does not have the forwarding address and it is not in the file. She filed an Application for Dispute Resolution as soon as she received the tenant's forwarding address contained in his Application for Dispute Resolution. The tenant testified he was never advised of the name of the person in charge of this file and as a result he gave his forwarding address to the Receptionist.

#### Tenant's Application:

The Residential Tenancy Act provides that a landlord must return the security deposit plus interest to the tenants within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenants forwarding address in writing unless the parties have agreed in writing that the landlord can retain the security deposit, the landlord already has a monetary order against the tenants or the landlord files an Application for Dispute Resolution within that 15 day period. It further provides that if the landlord fails to do this the tenant is entitled to an order for double the security deposit.

### Analysis

The tenant paid a security deposit of \$775 on March 17, 2014. I determined the tenancy ended on July 31, 2015. I further determined the tenant provided the landlord with his forwarding address in writing on August 18, 2015. The tenant's testimony was candid and precise. The Receptionist did not attend the hearing or give evidence.

The parties have not agreed in writing that the landlord can retain the security deposit. The landlord does not have a monetary order against the tenants and the landlord failed to file an Application for Dispute Resolution within the 15 days from the later of the end of tenancy or the date the landlord receives the tenants' forwarding address in writing. As a result I determined the tenants have established a claim against the landlord for double the security deposit or the sum of \$1550.

In summary I determined the tenant has established a claim against the landlord in the sum of \$1550 plus \$50 for the cost of the filing fee for a total of \$1600.

### Landlord's Application:

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

### Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to \$142.73 for the cost of fixing the blinds as evidenced by a bill from AG. The tenant acknowledged responsibility for this claim.
- b. I determined the landlord has established a claim in the sum of \$81.43 for the cost of removing stickers. The tenant acknowledged responsibility for this claim.
- c. The landlord claimed the sum of \$882 for the cost of prepping and painting walls. The landlord testified the rental unit was new when the tenant took possession in March 2014. The tenant disputes this claim. He testified the landlord's Condition Inspection Report at the end of the tenancy is different that what the landlord

gave to him as the landlord added items. There are no photographs. After considering the disputed evidence I determined the landlord is entitled to \$440 of this claim. Policy Guideline #40 provides that the expected life of an interior paint job is 4 years. While the landlord failed to produce photographs I am satisfied the condition of the walls left by the Tenant was not satisfactory. I determined a reasonable sum for this claim is \$440.

- d. The landlord claimed \$294 for the cost of cleaning. The landlord failed to produce photos or testimony from the person who did the cleaning. The tenant testified he and his girlfriend spent 2 days cleaning before they vacated. After considering the disputed evidence I determined the landlord is entitled to \$150 of this claim.

In summary I determined the landlord has established a monetary claim against the tenant in the sum of \$814.16 plus the \$50 filing fee for a total of \$864.16.

Conclusion:

I determined the tenant established a claim against the landlord in the sum of \$1600. I determined the landlord has established a claim against the tenant in the sum of \$864.16. After setting off one claim against that of the other I ordered the landlord pay to the Tenant the sum of \$735.84.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: March 24, 2016

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Residential Tenancy Branch

