



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND MNSD FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord under the *Residential Tenancy Act* (the “*Act*”) for a monetary order for damage to the unit, site or property, for authority to keep all or part of the security deposit, and to recover the cost of the filing fee.

The landlord and the tenant attended the teleconference hearing. During the hearing the parties were given the opportunity to provide their evidence orally and ask questions about the hearing process. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

The tenant confirmed having received and reviewed the landlord’s documentary evidence prior to the hearing. The tenant confirmed that the tenant did not serve the landlord with documentary evidence. I find the tenant was served with documentary evidence in accordance with the *Act*.

### Preliminary and Procedural Matter

During the hearing, and by consent of the parties, the surname of the respondent tenant was amended to reflect the correct spelling. This amendment was made in accordance with section 64(3) of the *Act*.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant’s security deposit under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on August 30, 2014 and ended on August 30, 2015. Monthly rent of \$2,400.00 was due on the first day of each month however the parties mutually agreed for the entire amount of monthly rent for the full term of the fixed-term to be paid at the start of the tenancy in the amount of \$28,800.00.

The tenant paid a security deposit of \$1,200.00 and a pet damage deposit of \$1,200.00 at the start of the tenancy. The parties agreed that the tenant has already received \$1,800.00 of the \$2,400.00 in combined deposits. The landlord continues to hold \$600.00 of the \$1,200.00 security deposit and applied for dispute resolution claiming towards the tenant's deposits on September 9, 2015. The parties agreed that the tenant provided his written forwarding address to the landlord by text on September 11, 2015.

The landlord has applied for monetary compensation in the amount of \$600.00 although the total monetary claim as submitted actually totals \$608.53. The landlord confirmed that the landlord was willing to reduce the amount to \$600.00 during the hearing.

1. Parking passes (2 X \$50.00 each)	\$100.00
2. Purchase of new dryer (half of \$777.06 paid by landlord)	\$388.53
3. Cleaning costs	\$120.00
<b>Subtotal</b>	<b>\$608.53</b>
<i>Less \$608.53 to make the application match the landlord's claim by request of the landlord</i>	<i>-\$8.53</i>
<b>TOTAL</b>	<b>\$600.00</b>

Regarding item 1, the parties reached a mutually settled agreement during the hearing that the tenant would compensate the landlord for the two parking passes which total \$100.00. As a result, this portion of the landlord's claim will be addressed later in this decision.

Regarding item 2, the landlord has claimed \$388.53 which represents one-half of the cost of a replacement dryer valued at \$777.06. The landlord testified that the dryer was six months old when the tenancy began in 2014. The tenant did not agree with this portion of the landlord's claim. The landlord testified that the inside of the drum of the dryer was dented. The tenant's response to this portion of the landlord's claim was "I

don't know about the dryer." The landlord submitted an invoice dated May 25, 2015 which indicates that the dryer needed a new set of rollers, blower and drum assembly. The landlord stated that he felt it was more cost effective to buy a new dryer as the repair would have been \$156.00 for a set of rollers, \$220.00 for a drum plus taxes and \$220.00 for labour to install the parts plus taxes. As a result, the landlord made a decision to spend \$777.06 to purchase a new dryer and paid a total of \$2,138.76 which included a washer also, of which the dryer portion was \$777.06 before taxes. The landlord testified that he is only charging the tenant one-half of the \$777.06 for the damage to the inside of the dryer and is not charging the tenant any of the tax amount paid.

Regarding item #3, the landlord has claimed \$120.00 for cleaning costs. The tenant disputed this portion of the landlord's claim. The landlord submitted several photos in evidence regarding this portion the landlord's claim.

The condition inspection report submitted in evidence was not completed in terms of the column that reads "Condition at End of Tenancy". The

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. In this instance, the burden of proof is on the landlord to provide sufficient evidence to prove his claim.

Firstly, the landlord applied for dispute resolution within 15 days of receiving the tenant's forwarding address as required under section 38 of the *Act*.

**Item 1** – Pursuant to section 63 of the *Act*, the parties reached a mutually settled agreement for this portion of the landlord's claim in the amount of **\$100.00**. The tenant did not dispute that he owed the landlord \$100.00 for the two parking passes.

**Item 2** – As the tenant disputes this portion of the landlord's claim, I have considered the tenant's testimony in which the tenant stated "I don't know about the dryer." I have also considered that the invoice to check the condition of the dryer in May 2015 which was during the tenancy as the tenancy did not end until August 30, 2015. Therefore, I

find based on the balance of probabilities, that the damage to the dryer was more likely than not caused by the tenant's negligence. I find the landlord has provided sufficient evidence to support this portion of his claim and is entitled to **\$388.53** as claimed. I note that the landlord has complied with section 7 of the *Act* by only claiming one-half of the total cost of the dryer and is not claiming any amount for the taxes paid and as supported by the invoice submitted in evidence.

**Item 3** – Although the landlord has claimed \$120.00 for the costs to clean the rental unit after the tenant vacated the rental unit, I find the photos submitted in evidence do not support this portion of the landlord's claim. As a result, **I dismiss** this portion of the landlord's claim without leave to reapply, **due to insufficient evidence**.

As the landlord's had merit, **I grant** the landlord the recovery of the cost of the filing fee in the amount of **\$50.00**. The landlord continues to hold \$600.00 of the tenant's security deposit \$1,200.00 and has already paid the full pet damage deposit back to the tenant. Neither deposit has accrued any interest to date.

**Monetary Order** – I find that the landlord has established a total monetary claim in the amount of **\$538.53** comprised of \$100.00 for the two parking passes by way of a mutual agreement between the parties, \$388.53 for the dryer, and \$50.00 for the recovery of the cost of the filing fee. I find this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the remainder of the tenant's security deposit of \$600.00. **I authorize** the landlord to retain **\$538.53** of the tenant's remaining security deposit of \$600.00 in full satisfaction of the landlord's monetary claim, and I grant the tenant a monetary order under section 67 for the remaining balance of the tenant's security deposit due to the tenant by the landlord in the amount of **\$61.47**.

### Conclusion

The landlord's application has merit.

The landlord has established a total monetary claim in the amount of \$538.53. The landlord has been authorized to retain \$538.53 of the tenant's remaining \$600.00 security deposit in full satisfaction of the landlord's monetary claim. The tenant has been granted a monetary order under section 67 for the tenant's security deposit balance owing by the landlord to the tenant in the amount of \$61.47. This order may be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 8, 2016

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Residential Tenancy Branch