



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC

### Introduction

This is an application brought by the tenant(s) requesting a Monetary Order in the amount of \$1700.00.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Both parties were affirmed.

### Issue(s) to be Decided

The issue is whether or not the applicants have established a monetary claim against the respondent, and if so in what amount.

### Background and Evidence

The parties agree that this tenancy began on October 1, 2015 with a monthly rent of \$850.00 and that a security deposit of \$425.00 was also paid on October 1, 2015.

The parties also agree that the tenant vacated the rental unit on December 1, 2015.

The parties also agree that the tenant has not given the landlord a forwarding address in writing.

The tenant testified that on October 12, 2015 there was a flood in the rental unit and as a result they had a loss of use of enjoyment of the rental unit from then until the end of the tenancy and therefore they are requesting the return of all rent from October 12, 2015 through the end of November 2015.

The tenant testified that the flood was a result of a short circuit in the landlord's house which caused the sprinkler to flood the bedroom.

The tenant further testified that the landlord originally told them it would be approximately one week to repair the damage, and one week to have a machine drying out the rental unit.

The tenant further testified that the damage was not fixed for almost 2 months.

The tenant further testified that the landlord has not returned any of the security deposit.

The tenant is therefore requesting a Monetary Order as follows:

|  |           |
|--|-----------|
| Return security deposit                | \$425.00  |
| Return October rent from October 12 on | \$525.00  |
| Return full November rent              | \$750.00  |
| Total                                  | \$1700.00 |

The landlord testified that there was a flood at the rental unit as a result of a short circuit however, it was not something they could predict happening and they had the repair done as quickly as possible.

The landlord further testified that she never told the tenants it would only be one week, right from the start she informed the tenants it would be approximately 6 weeks to complete the repairs and the dry out of the rental property.

Not landlord further testified that she hired professionals to do the repair and she believes they handled the repair in a timely manner.

The landlord further testified that the flood was only in the bedroom and therefore there was very little inconvenience, as the remainder of the house was still fully usable.

The landlord further testified that the security deposit was not returned to the tenants because the tenants did not give her any Notice to End Tenancy, and did not clean the rental unit when they vacated.

In response to the landlord's testimony the tenant reiterated that the landlord only told them the repairs would take one week.

### Analysis

With regard to the security deposit, section 39 of the Residential Tenancy Act states:

**39** Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

(a) the landlord may keep the security deposit or the pet damage deposit, or both, and

(b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

In this case the tenant has admitted that they have not given the landlord a forwarding address in writing and therefore the landlord is not obligated to return the security deposit. The claim for the return of the security deposit is therefore premature and if the tenant want the security deposit returned, they must first serve the landlord with a forwarding address in writing, and then, pursuant to section 38 of the Residential Tenancy Act, the landlord has 15 days to either return the deposit or file a claim against the deposit.

With regards to the tenants claim for return of rent it is my decision that the landlord is not liable for the tenant's loss of use. This flood was caused by short circuit that could not have been predicted by the landlord and therefore there was no negligence on the part of the landlord. Further it's my finding that the landlord took reasonable steps to resolve the issues as quickly as possible and although there may have been some inconvenience for the tenants, they continued living in the rental unit until the end of November 2015, and it's my decision that they were required to pay rent up until that date.

Conclusion

The claim for return of the security deposit is dismissed with leave to reapply, once the tenant has served the landlord with a forwarding address in writing and waited the prescribed 15 days.

The claim for the return of rent is dismissed without leave to reapply.

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 29, 2016

---

Residential Tenancy Branch