



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sterling Management Services Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR MNSD MNDC FF

### Introduction

This hearing dealt with applications by the landlord and the tenants for monetary compensation. The landlord, the tenants and an advocate for the tenants participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?  
Are the tenants entitled to monetary compensation as claimed?  
Is either party entitled to recovery of their filing fee?

### Background and Evidence

The tenancy began on August 1, 2013. On that date, the landlord and the tenant carried out a move-in inspection and completed a condition inspection report. However, the landlord did not give the tenants a copy of the report. At the beginning of the tenancy, the tenant paid the landlord a security deposit of \$775.00.

The tenancy ended on June 30, 2016. On that date, the landlord and the tenant carried out a move-out inspection and completed the condition inspection report. On the report the landlord indicated that some "touch up cleaning" was required, and there were patch marks on the walls where holes had been filled. The tenant signed the move-out portion

of the report indicating that she agreed with the condition of the unit as described in the report. The landlord did not indicate any specific dollar amount that they intended to withhold from the security deposit. The tenant did not include a forwarding address on the report.

On July 26, 2016 the landlord gave the tenants a cheque for \$183.85 and indicated that they deducted from the security deposit \$150.15 for cleaning and \$441.00 for painting. The tenants applied for dispute resolution on August 3, 2016. The landlord applied for dispute resolution on August 7, 2016.

### *Tenants' Evidence*

The tenants applied for double recovery of the security deposit.

The tenants submitted that because the landlord did not give them a copy of the move-in condition inspection report as required under section 24 of the Act, the landlord had therefore extinguished their right to claim against the security deposit for damage to the rental unit.

The tenants submitted that their address for service was set out on their application for dispute resolution, which was filed and served on the landlord in August 2016. The tenants also stated that they provided the landlord with their forwarding address by email within one year after the tenancy ended.

The tenants stated that at the end of the tenancy the rental unit was in impeccable shape. The tenants stated that at the move-out inspection the landlord and the tenant agreed there was some normal wear and tear, and there was no money owing to the landlord. The tenants indicated that they did not cash the landlord's cheque for \$183.85.

The tenants submitted that the landlord should not be entitled to recovery of their filing fee because the landlord did not follow procedure when filing their application, and their error caused, or could have caused, the tenants time and money.

### *Landlord's Evidence*

The landlord applied for an order allowing them to retain \$591.15 from the security deposit for cleaning and painting costs.

The landlord stated that they always advise tenants that they can pick up their copy of the condition inspection report at the office.

The landlord stated that they did not return the balance of the security deposit immediately because the tenants did not provide a forwarding address in writing, and they only provided a commercial address.

The landlord stated that the cleaning and painting invoices show the costs incurred, which they deducted from the security deposit. The landlord submitted that the tenant agreed on the move-out report that cleaning and painting was required.

### Analysis

Based on the evidence, I find as follows.

The landlord returned \$183.85 of the security deposit on July 26, 2016. The tenants did not provide a copy of the email they sent to the landlord with a forwarding address; nor did they indicate what date that email was sent, only that it was sent within a year after the tenancy ended. The tenants made their application for dispute resolution on August 3, 2016, and the landlord applied to keep part of the security deposit on August 7, 2016. If I am to accept the tenants' application as providing their forwarding address in writing, then the landlord returned part of the security deposit before even receiving the tenants' forwarding address, and they applied to retain the balance of the deposit within 15 days of having received the tenants' forwarding address.

Under sections 24 and 38 of the Act, if a landlord does not comply with the requirements regarding the move-in inspection report as set out in section 23 of the Act and section 18 of the regulation, the landlord extinguishes their right to claim against the deposit for damage to the rental unit or property. In this case, the landlord failed to comply with the requirement to provide the tenants with a copy of the move-in condition inspection report, and their right to claim against the deposit for damage to the rental unit was extinguished. Therefore, although the landlord made their application in time, their right to make that application was extinguished. I find that the tenants are therefore entitled to double recovery of \$591.15, the unreturned amount of the deposit, for a total of \$1,182.30.

If a landlord has not extinguished their right to claim against the security deposit for damage to the unit, they must obtain from the tenant(s) written permission to retain a specific dollar amount from the deposit. The landlord did not do so in this case. However, the tenant did sign the report indicating that she agreed with the landlord's assessment of the condition of the rental unit. Further, the landlord has provided

invoices to support their claim. I do not find the amounts to be unreasonable, and I grant the landlord their monetary claim of \$591.15.

As both applications were only partially successful, I decline to award either party recovery of the filing fee for the cost of their applications.

### Conclusion

Both applications are partially successful.

The tenants are entitled to \$1,182.30. The landlord is entitled to \$591.15. I recognize that as the tenants did not cash the cheque issued to them for \$183.85, and that cheque is likely now stale dated, I add that amount to the monetary order and grant the tenants an order under section 67 for the balance due of \$775.00. 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: February 6, 2017

---

Residential Tenancy Branch