



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlords for the cost of the application.

The tenant and both landlords attended the hearing, and all parties gave affirmed testimony. The parties were also given the opportunity to question each other, and all evidence provided has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for return of all or part or double the amount of the security deposit?

### Background and Evidence

**The tenant** testified that this tenancy began on January 1, 2015, and a new tenancy agreement, a copy of which has been provided, was signed by the parties for a new fixed term tenancy to begin on January 1, 2016 and end on July 1, 2016 at which time the tenancy ends. The tenant moved out of the rental unit on July 1, 2016.

Rent in the amount of \$1,000.00 per month was payable on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the first tenancy the landlords collected a security deposit from the tenant in the amount of \$480.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a condominium-style apartment unit.

The tenant further testified that the landlords were provided with the tenant's forwarding address in writing when the tenant served the Tenant's Application for Dispute Resolution which is the subject of this hearing, but the forwarding address was not provided to the landlords prior. The parties had always exchanged money by way of electronic transfer of funds and communicated by text message. The tenant had to depart and asked the landlords to keep \$180.00 of the security deposit and send invoices for any claims, but they never did. The tenant assumed that the landlords would return the balance of the security deposit electronically or send copies of bills.

The landlords have not served the tenant with an application for dispute resolution claiming against the security deposit and the tenant claims double the amount in addition to recovery of the filing fee and cost of serving the application, for a total claim of \$980.00.

**The first landlord** (GJD) testified that the cleaning and repairs required to the rental unit at the end of the tenancy exceeded the amount of the security deposit and the landlords were not aware that they were required to make an application for dispute resolution to claim against the security deposit. The landlord agrees that there are no rental arrears or unpaid utilities.

The only time the landlords received the tenant's forwarding address in writing was when they were served with the Tenant's Application for Dispute Resolution and notice of this hearing. However, the parties talked on the phone and texted. The landlord wrote down what everything cost, and told the tenant why they were holding the money back, but didn't receive a reply from the tenant. The landlords spent 10 hours each for 2 days cleaning the rental unit at the end of the tenancy, and photographs have been provided.

The rental unit has not been re-rented, but the landlords sold it.

**The second landlord** (CMD) testified that she trusted the tenant after meeting with her and upon receiving the tenant's application to rent. The rental unit was very clean and the landlord trusted the tenant would take care of it as the landlords had done having lived in it previously.

The landlords were new to renting, but at the end of the tenancy, when the landlord walked into the rental unit, the landlord was very disappointed and totally disgusted of how uncaring the tenant was. There were broken light bulbs in fixtures, the fridge was damaged, the stove was so disgusting it went to the dump. The tenant told the landlord that her cleaning lady didn't show up and the landlords should keep \$125.00 of the

security deposit to pay for cleaning. After entering the vacant rental unit, the landlord believes the cleaning lady saw it and refused to clean it.

### Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit in full to a tenant or file and serve the tenant with an application for dispute resolution claiming against the security deposit, within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing unless the landlord has the tenant's consent in writing to keep any portion of it. If the landlord fails to do either, the landlord must repay the tenant double the amount. The *Act* also specifies that if the tenant does not provide a forwarding address in writing to a landlord within a year after the tenancy ends, the landlords may keep the security deposit.

In this case, the parties agree that the tenancy ended on July 1, 2016, and agree that the landlords received the tenant's forwarding address in writing on the Tenant's Application for Dispute Resolution, but not prior. The parties also agree that the landlords have not made an application for dispute resolution claiming against the deposit.

The landlords both testified that the tenant did not leave the rental unit reasonably clean and undamaged at the end of the tenancy, but in the absence of an application for dispute resolution from the landlords, I cannot consider any claims of the landlords.

The landlords now have the tenant's forwarding address in writing, and I find that for the purposes of Section 38 of the *Act*, the landlords received it today. The landlords have not repaid or made an application for dispute resolution claiming against it, and I find that the tenant is entitled to recover it. Having found that the landlord received the tenant's forwarding address in writing on April 26, 2017, I find that the tenant is entitled to recover the security deposit in the amount of \$480.00. The tenant is at liberty to apply for double if the landlords fail to return it within 15 days.

The *Residential Tenancy Act* does not provide for recovery of the costs for preparing for a hearing or serving documents, but does allow for recovery of a filing fee. Since the tenant has been partially successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$580.00.

This order is final and binding and may be enforced.

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: April 27, 2017

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Residential Tenancy Branch