



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order to retain the tenant's security and pet deposit pursuant to section 38 of the *Act*

Both the landlord and the tenant appeared at the hearing. Both parties were given a full opportunity to be heard, to present testimony and to make submissions.

The tenant confirmed receipt of the landlord's application for dispute resolution and evidentiary package by way of Canada Post Registered Mail on June 9, 2017. Pursuant to sections 88 & 89 of the *Act*, the tenant is found to have been duly served with the landlord's application and evidentiary package.

### Issue(s) to be Decided

Can the landlord retain the tenant's pet and security deposit?

### Background and Evidence

Testimony presented to the hearing by both parties explained that this tenancy began on November 1, 2016 and ended on April 30, 2017. Rent was \$2,000.00 per month and deposits of \$1,000.00 (security) and \$500.00 (pet) were collected at the outset of the tenancy and continue to be held by the landlord.

The landlord explained that the parties performed a condition inspection report of the property together on May 5, 2017. The landlord confirmed receipt of the tenant's forwarding address by way of Canada Post Registered Mail on June 3, 2017.

The landlord stated that both during and following the condition inspection report, he found numerous problems with the rental unit. Specifically, the landlord cited a carpet that was excessively muddy and dirty, couches that were covered in dog hair and which could not be cleaned, and various other general cleaning of the property that was required. The landlord continued by stating that the tenant had failed to return the key for the garage door, and that he was therefore required to purchase a new lock to replace the garage lock.

The tenant did not deny that some damage was done to the couch and carpet but argued that the apartment had suffered from normal wear and tear, and that the unit was not left excessively dirty. Furthermore, the tenant stated that the rental unit was not new to begin with, and many of the items for which the landlord is claiming compensation were beyond their useful life and well worn. The tenant explained that he made a concerted effort to clean the suite, but had no obligation under the tenancy agreement or the *Act* to have the carpets cleaned as he was in occupation of the rental unit for less than 1 year.

### Analysis

Section 38 of the *Act* requires the landlord to either return a tenant's security deposit in full or file a claim against a tenant's deposit within 15 days of the *later* of the end of the tenancy or the date a tenant's forwarding address is received in writing. The landlord provided undisputed testimony that he received the tenants' forwarding address by way of Canada Post Registered Mail on June 3, 2017. On June 5, 2017 the landlord applied for dispute resolution to retain the tenant's security deposit. The landlord has therefore fulfilled the requirements of section 38 of the *Act*, as the tenant's forward address was received on June 3, 2017 and the landlord had until June 18, 2017 to apply to retain the deposits.

Subsections 4 of this section states that, "A landlord may retain an amount from a security deposit or a pet damage deposit if, after the end of the tenancy, the director orders that the landlord may retain the amount." I find that sufficient evidence was presented by the landlord to the hearing demonstrating that *some* loss was suffered as a result of this tenancy. I do not find that sufficient evidence speaking to the age and nature of the alleged items which were damaged was presented to the hearing by the landlord. The landlord was unable to produce receipts or a detailed account when these items were purchased, and the landlord failed to provide a copy of the condition inspection report to the hearing, describing to the condition of the home and its contents at the start of the tenancy.

I allow the landlord to retain the tenant's pet deposit in satisfaction for damage to the rental unit which resulted from the presence of pets in the rental unit. I order the landlord to return only the security deposit to the tenant.

Conclusion

The landlord is entitled to retain the tenant's \$500.00 pet deposit.

The landlord is directed to return the tenant's \$1,000.00 security deposit.

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: November 21, 2017

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Residential Tenancy Branch