



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REGENT PARK PINNACLE REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            MND, MNR, MNSD, FF

### Introduction

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

- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 15 minutes. The corporate landlord was represented by its agent (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated July 14, 2017 and evidence package were sent to the tenants by registered mail to an address provided by the tenants, on that date. The landlord provided two Canada Post tracking numbers as evidence of service. I find that the tenants were deemed served with the landlord's application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the Act on July 19, 2017, five days after mailing.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began in October, 2016 and ended in July, 2017. The monthly rent was \$2,500.00. A security deposit of \$1,250.00 and pet damage deposit of \$1,250.00 were collected at the start of the tenancy and are still held by the landlord.

The parties prepared a move in condition inspection report at the start of the tenancy. A copy of the report was submitted into written evidence. The tenants failed to attend a move-out condition inspection despite initially agreeing to a date. The tenants provided a forwarding address in writing on July 11, 2017. The landlord testified that the rental unit was in disrepair at the end of the tenancy. The landlord submitted into written evidence several photographs of the damages and missing fixtures. The landlord estimates that the monetary value of the damages and loss is \$700.00

The tenants failed to pay the rent for the month of June, 2017. The landlord said that the arrear for the tenancy is \$2,500.00.

### Analysis

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy or upon receipt of the tenant's forwarding address in writing. If that does not occur, the landlord must pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the security deposit. However, this provision does not apply if the landlord has obtained the tenant's written permission to keep all or a portion of the security deposit as per section 38(4)(a).

I accept the undisputed evidence of the landlord that the tenant provided a forwarding address on July 11, 2017. The landlord filed their application for dispute resolution seeking authorization to retain the security deposit on July 14, 2017, within the 15 days provided under the *Act*.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the landlord's undisputed evidence that the arrear for this tenancy is \$2,500.00.

I accept the undisputed evidence of the landlord that the tenant caused damage to the rental unit that required repairs and cleaning. I accept the landlord's sworn testimony that the cost of the repairs and cleaning is \$700.00

Accordingly, I issue a monetary award in the landlord's favour of \$3,200.00.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenants' security deposit and pet damage deposit of \$2,500.00 in partial satisfaction of the monetary award issued in the landlord's favour.

### Conclusion

I issue a monetary order in the landlords' favour in the amount of \$800.00 under the following terms, which allows the landlord to recover the unpaid rent, damage and loss suffered and the filing fee for their application:

Item	Amount
Unpaid Rent June, 2017	\$2,500.00
Repairs and Cleaning	\$700.00
Filing Fees	\$100.00
Less Security Deposit	-\$1,250.00
Less Pet Damage Deposit	-\$1,250.00
<b>Total</b>	<b>\$800.00</b>

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: January 17, 2018

---

Residential Tenancy Branch