



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MNSD, FF

### Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The landlords did not attend this hearing, although I waited until 2:45 p.m. in order to enable the landlords to connect with this teleconference hearing scheduled for 2:30 p.m.

The tenants attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Tenant A.W. (the tenant) indicated that he would be the primary speaker for the tenants

While I have turned my mind to all the documentary evidence, including the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The tenant confirmed receipt of the Application for Dispute Resolution (the Application) and evidentiary package, which was sent by e-mail to the tenants as per an order for substituted service obtained by the landlord. In accordance with section 71 of the *Act*, I find that the tenants are duly served with the landlords' Application and evidentiary package

The tenant testified that they sent their evidence to the landlords by way of registered mail on January 02, 2018. Based on the undisputed affirmed testimony of the tenant and in accordance with sections 88 and 90 of the *Act*, I find the landlords are deemed served with the tenants' evidence on January 07, 2018.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent?

Are the landlords entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

A copy of the tenancy agreement was provided in evidence to show that this tenancy began on September 27, 2016, with a monthly rent of \$850.00, due on the 27th day of each month. The tenancy agreement indicates a security deposit in the amount of \$425.00. The tenant gave undisputed affirmed testimony that they paid the security deposit to the landlord and that the landlord continues to retain it.

Analysis

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

**Commencement of the hearing** - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, **in the absence of any evidence or submissions from the applicant, I order the Application dismissed without liberty to reapply.**

RTB Policy Guideline # 17 C states that an arbitrator will order the return of a security deposit on a landlord's application to retain all or a part of the security deposit.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

As I have dismissed the landlords' Application to retain the security deposit, I find that the tenants are entitled to a monetary award of \$425.00 for the return of their security deposit.

Conclusion

The landlords' Application is dismissed, without leave to reapply.

Pursuant to section 67 of the *Act*, I grant a monetary Order in the tenants' favour in the amount of \$425.00. The tenants are provided with these Orders in the above terms and the landlord(s) must be served with this Order as soon as possible. Should the landlord(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 18, 2018

---

Residential Tenancy Branch