



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlords pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlords and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord required to repay the Tenants with double the security deposit?

### Background and Evidence

The following are undisputed facts: The tenancy, under written agreement, started on November 1, 2016 and ended on July 31, 2017. Rent of \$2,350.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,175.00 as a security deposit. The Tenant did not pay rent for June and July 2017. On September 16, 2017 the Tenant paid \$250.00 towards the rental arrears and on September 20, 2017 the Tenant paid another \$250.00 towards the rental arrears. Rental arrears of \$4,200.00 are outstanding. The unit was new approximately 6 months prior to the tenancy.

It is noted that the copy of the tenancy agreement provided by the Landlord in photo format cannot be enlarged sufficiently to read the document. The Landlord claims the unpaid rent of \$4,200.00.

The Landlord states that at move-in the Parties mutually conducted an inspection, that the Landlord is not sure if the inspection report form was filled, and that the Landlord may have left the inspection form for the Tenants to sign and return. The Landlord states that no form was returned by the Tenants. The Tenant states that no inspection was conducted and no form was filled out by the Landlord or provided to the Tenants. The Landlord states that no move-out inspection was conducted.

The Landlord states that the Tenants provided their forwarding address to the Landlord on July 31, 2017 and that the Landlords' application made November 2, 2017 was then served to each of the two Tenants at this address by registered mail. The Landlord states that one package was returned and the other was not claimed. The Landlord states that he then drove to the address provided and noted that the Tenants lived in a house next to the address provided and that the address was one number out. The Landlord states that it then sent the packages to the house lived in by the Tenants. The Tenant states that in error the Landlord was provided with the number of the house across the street. The Tenant states that she was off by one number by mistake.

The Landlord states that the Tenant left two sets of blinds with broken slats and that the slats were replaced for a cost of \$65.00 from the original supplier. The Landlord did not provide a receipt for this cost. The Tenant states that there were no blinds left broken at move-out.

The Landlord states that the Tenant left the carpet with stains. The Landlord initially states that he "had a guy come in and clean the stains", that  $\frac{3}{4}$  of the stains were removed and that the person who cleaned the stains informed the Landlord that it would

cost \$150.00 to remove and patch the four remaining stained areas. The Landlord states that the repairs to the carpet were not done and that the Landlord did the cleaning to the carpets himself. The Landlord states that no professional carpet cleaning company was used to clean the carpets. The Landlord claims \$600.00.

The Landlord states that it did not make its application before November 2, 2017 as the Landlord was attempting to negotiate a settlement of its claims before it made its application. The Landlord also states that the Tenants verbally informed the Landlord that it could keep the security deposit against the rent owed. The Tenant states that she never talked to the Landlord about the deposit and that she was the only person who communicated with the Landlord about matters.

### Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Based on the undisputed evidence that the Tenant owes rental arrears of **\$4,200.00** I find that the Landlord has substantiated an entitlement to this amount.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that costs for the damage or loss have been incurred or established. Given the lack of receipts I find that the Landlord has failed to substantiate that the costs claimed were either incurred or established and I dismiss the claims for repairs to the blinds and carpet.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Policy Guideline #17 provides as follows:

If a landlord does not return the security deposit or apply for dispute resolution to retain the security deposit within the time required, and subsequently applies for dispute resolution in respect of monetary claims arising out of the tenancy, any monetary amount awarded will be set off against double the amount of the deposit plus interest.

Given the undisputed evidence that the tenancy ended on July 31, 2017, that the Landlord obtained a forwarding address for the Tenants on that date, and that the Landlord did not make its application within 15 days of either the end of the tenancy or receipt of the forwarding address I find that the Landlord must now repay the Tenants double the security deposit plus zero interest of **\$2,350.00**. I do not consider that the forwarding address being provided with an incorrect number to be relevant as the Landlord was already late in making its application when it determined the address to be incorrect. Time required to negotiate the settlement of claims is not a consideration under the Act to the time limit set on dealing with the security deposit.

As the Landlords claim for unpaid rent had merit I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$4,300.00**. Deducting the doubled security deposit of **\$2,350.00** from the Landlord's entitlement leaves **\$1,950.00** owed to the Landlord.

Conclusion

I grant the Landlord an order under Section 67 of the Act for **\$1,950.00**. If necessary, 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: June 11, 2018

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Residential Tenancy Branch