



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNDL-S, FFL

### Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). This hearing dealt with Landlord SSM's application on behalf of her father Landlord AP for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants applied for authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. As both parties confirmed that they had received one another's dispute resolution hearing packages and written evidence packages in their entirety and had been given an opportunity to review the case against them, I find that both parties were duly served with these packages in accordance with sections 88 and 89 of the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Are the tenants entitled to a monetary award equivalent to double the value of their security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*? Is the landlord entitled to recover the filing fee for their application from the tenants?

### Background and Evidence

On December 1, 2003, the tenants entered into a month-to-month tenancy agreement with Landlord AP for this rental unit. Monthly rent during the course of this tenancy had increased from \$800.00 to \$1,088.00, payable in advance by the first of each month. The landlord continues to hold the tenants' \$400.00 security deposit, plus interest, paid on or about December 1, 2003. The parties agreed that this tenancy ended on March 31, 2018.

The tenants claim was for a return of \$814.16, as they maintained that the landlord had not returned their security deposit within the time frames established in section 38 of the *Act*.

Landlord SM's claim submitted on her father, Landlord AP's, behalf as his agent, initially sought a monetary award of \$1,586.34, which was increased to in excess of \$3,637.00 in the Landlord SM's amended application for dispute resolution. The landlord submitted a Monetary Order Worksheet in which the details of this claim for damage arising out of the tenants' actions during the course of this tenancy was initiated.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a final and binding resolution of their applications under the following terms:

1. The tenants agreed to allow the landlord to retain the security deposit for this tenancy.
2. Both parties agreed that this settlement agreement constituted a final and binding resolution of both of their applications and furthermore agreed that they would not initiate any claims of any type against one another in the future for matters arising out of this tenancy.
3. Both parties confirmed that they agreed to the above final and binding terms of their own free will and without any element of force or coercion having been applied against them.

Conclusion

To give legal effect to the settlement agreement as outlined above, I order the landlord to retain the tenants' security deposit in its entirety.

This final and binding settlement agreement between the parties prevents both parties from initiating any further claims of any type against one another for matters arising out of this tenancy.

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 25, 2018

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Residential Tenancy Branch