



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LANDLORD: MNDC, MND, MNSD, FF  
TENANT: MNSD

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act regulations and tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenant filed for the return of double the security deposit.

Service of the hearing documents by the Landlords to the Tenant was done by registered mail on December 18, 2018, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlords were done by registered mail on September 19, 2018, in accordance with section 89 of the Act.

The Landlords and Tenant both confirmed that they received the other's hearing packages.

### Issues to be Decided

Landlord:

1. Are there damages to the unit, site or property and if so, how much?
2. Is the Landlord entitled to compensation for damages and if so how much?
3. Is the Landlord entitled to retain the Tenant's deposit?

Tenant:

1. Is the Tenant entitled to recover double the security deposit?

### Background and Evidence

This tenancy started on November 1, 2014 as a month to month tenancy. Rent was \$900.00 per month payable on the 31<sup>st</sup> day of each month. The Tenant paid a security deposit of \$450.00 on November 1, 2015. No condition inspection reports were completed for this tenancy. The Tenancy ended on September 30, 2016.

The Tenant said she gave the Landlord written notice to end the tenancy on August 31, 2016. The Tenant continued to say that no move in or move out condition inspections reports were done. As well she gave the Landlord her forwarding address in writing on September 1, 2017. The Tenant said she received a letter from the Landlord saying that they were not returning her security deposit because there was damage to the unit. The Tenant continued to say she has not received her security deposit back and according to the Act she understands that she can apply for double the security deposit. The Tenant said she is requesting 2 X \$450.00 or \$900.00 from the Landlord.

The Landlord said they did not know a move in condition inspection report was required to be completed at the start of the tenancy so they did not do one. The Landlord said the unit was left in poor condition and they submitted a witness letter to confirm the damage and poor condition of the unit after the Tenant moved out. The Landlord said the carpets were damaged beyond cleaning and the unit was left very dirty. The Landlord continued to say they submitted some paid bills and receipts in support of the repairs and cleaning, but they did not organize or calculate their monetary claim. The Landlord requested to retain the security deposit of \$450.00 and to be paid an additional \$450.00 for damages to the unit. Further the Landlord requested to recover the filing fee of \$100.00 if they are successful.

### Analysis

Sections 24 and 36 of the Act say if a landlord does not complete a move in and move out condition inspection report the landlord's right to claim against the tenants security or pet deposit is extinguished. I find the Landlord did not complete a move in or move out condition inspection report; therefore the Landlord's claim against the Tenant's security deposit for damage is extinguished. As a result, I dismiss the Landlord's request to retain the Tenant's security deposit.

Section 23 and 35 of the Act say that a landlord and tenant must do move in and move out condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. If this is not done and there is no other acceptable evidence of the condition of the rental unit at the start

and the end of a tenancy then the applicant cannot establish the amount of damage or if any damage was done to the rental unit. In this situation the Landlord says there was damage to the rental unit caused by the Tenant, but there is no base line at the start of the tenancy to measure the damage from. As the Landlord said they are unable to establish the condition of the rental unit at the start of the tenancy, I find that the Landlord has not established proof that the Tenant damaged the rental unit or the extent of damage the Tenant did to the unit. Consequently, I dismiss the Landlord's application for damages to the unit, site or property without leave to reapply.

As the Landlord's have been unsuccessful in this matter, I order the Landlords to bear the cost of the filing fee of \$100.00 which they have already paid.

With respect to the Tenant's application for double their security deposit in the amount of \$900.00.

Section 38 (1) of the Act says that except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and

- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

And Section 38 (6) says if a landlord does not comply with subsection (1), the landlord

- (a) may not make a claim against the security deposit or any pet damage deposit, and

(b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I accept the Tenant's testimony and written evidence that she gave the Landlords her forwarding address in writing on September 1, 2017. The Landlord did not repay security deposit to the Tenant within 15 days of the end of the tenancy or after receiving a forwarding address in writing from the Tenant, nor did the Landlord apply for dispute resolution by September 15, 2017. Consequently I find for the Tenant and grant an order for double the security deposit of \$450.00 in the amount of  $2 \times \$450.00 = \$900.00$ .

### Conclusion

A monetary order has been issued to the Tenant for \$900.00.

The Landlord's application is dismissed without leave to reapply.

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 07, 2019

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Residential Tenancy Branch