



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FFT

### Introduction

On October 16, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for the Landlord to return of all or part of the pet damage deposit or security deposit, and to recover the filing fee for the Application.

The matter was scheduled as a teleconference hearing. The Tenant and Landlord appeared at the hearing.

The hearing process was explained and the parties were asked if they had any questions. The parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Tenant entitled to the return of a security deposit or pet damage deposit?

### Background and Evidence

The parties testified that the tenancy began on December 1, 2016, and ended on August 31, 2018. Rent in the amount of \$1,100.00 was due by the first day of each month. The parties testified that the Tenant was the roommate of the original Tenant and when the original Tenant moved out, the Tenant took over the tenancy.

The Tenant testified that she reimbursed the original Tenant the amount of \$550.00 for the security deposit that had been paid to the Landlord. The Tenant submitted that the original security deposit held by the Landlord applies to her tenancy.

The Landlord confirmed that the original Tenant paid her \$550.00 for a security deposit and that she never returned the security deposit to the original Tenant when he moved out of the unit.

The Tenant testified that the Landlord did not return the security deposit to her after she moved out of the rental unit. She testified that the Landlord wanted to claim against the deposit.

The Tenant referred to a condition inspection report that was completed at the end of the tenancy. The Tenant had agent attend the move out inspection on her behalf.

The condition inspection report document indicates that the Tenant's agent signed the agreement stating that she agrees with the report and agrees that the Landlord can keep the security deposit in the amount of \$550.00.

The Tenant testified that she had not previously noticed this information provided in the report. The Tenant provided testimony acknowledging that she has made an error in seeking the return of the deposit.

### Analysis

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

Section 38 (4) of the Act states that a Landlord may retain an amount from a security deposit if at the end of the tenancy the Tenant agrees in writing the Landlord may retain the amount.

I find that there was an written agreement from the Tenant's agent at the end of the tenancy permitting the Landlord to retain the full amount of the security deposit.

I find that the Landlord has not breached the Act and the Tenant is not entitled to the return of the security deposit.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was not successful, I decline to award the cost of the filing fee.

### Conclusion

The Tenant's application is not successful. I find that there was an agreement from the Tenant's agent at the end of the tenancy permitting the Landlord to retain the full amount of the security deposit.

I find that the Landlord has not breached the Act and the Tenant is not entitled to the return of the security deposit.

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: February 13, 2019

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Residential Tenancy Branch