



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NORTH STAR INN  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDCT

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on July 2, 2019 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- an order that the Landlord return all or part of the security deposit; and
- a monetary order for compensation.

The Tenant and the Landlord's Agent P.B. attended the hearing at the appointed date and time and provided affirmed testimony.

The Tenant testified that he served the Tenants' Application and documentary evidence package to the Landlord in person. The Landlord confirmed receipt. No issues were raised during the hearing with respect to service and receipt of the above documents. Accordingly, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to 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.

### Issue(s) to be Decided

1. Are the Tenants entitled to an order that the Landlord return all or part of the security deposit, pursuant to Section 38 of the *Act*?
2. Are the Tenants entitled to a monetary for compensation, pursuant to Section 67 of the *Act*?

### Background and Evidence

The parties testified and agreed to the following; the tenancy began on January 1, 2019. Rent in the amount of \$1,000.00 was due to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$500.00 which the Landlord continues to hold.

The Tenant stated that Landlord locked the Tenants out of the rental unit two weeks into the tenancy. The Tenant stated that Police became involved and that the Tenants had no where else to go. The Tenant stated that he is seeking the return of half a month rent for January 2019 in the amount of \$500.00 as the Tenants were unable to access the rental unit after being locked out.

The Landlord's Agent stated that the Landlord had some serious concerns regarding the Tenants' guests and activities which were taking place in the rental unit. The Landlord's Agent stated that Police were phoned as a result. The Landlord's Agent stated that following that date, the Tenants were not seen or heard from. The Landlord's Agent stated that after they did not receive rent from the Tenants in February 2019, the Landlord suspected that the Tenants had abandoned the rental unit. The Landlord's Agent stated that on February 16, 2019 the Tenants returned to the rental unit to collect their belongings which marked the end of their tenancy.

The Tenant stated that he has not yet received the Tenants' security deposit in the amount of \$500.00. The Landlord's Agent stated that the Landlord has retained the Tenants' security deposit as the Tenants did not pay rent for February 2019, as well as to repair damage and cleaning required in the rental unit. Both parties agreed that the Tenants have not yet provided the Landlord with their forwarding address.

### Analysis

Based on the documentary evidence before me for consideration and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 38(1) of the Act requires a landlord to repay deposits or make a claim against them by filing an application for dispute resolution within 15 days after receiving a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to comply with section 38(1) of the Act, and does not have authority under sections 38(3) or 38(4) of the Act to withhold any deposits, section 38(6) stipulates that a tenant is entitled to receive double the amount of the security deposit. These mandatory provisions are intended to discourage landlords from arbitrarily retaining deposits.

In this case, the parties agreed that the Tenants have not yet provided the Landlord with their forwarding address. As such, I find that the Tenants' Application for the return of

their security deposit is premature and is therefore dismissed with leave to reapply. The Tenants are at liberty to reapply after their forwarding address is served to the Landlord, should the Landlord not comply with Section 38 of the *Act* outlined above.

The Tenants are also claiming \$500.00 for compensation relating to half of month of rent. The Tenants stated that the Landlord changed the lock on the rental unit, preventing the Tenants from accessing the rental unit for half of the month of January 2019. The Landlord stated that this did not occur and that the Tenants were nowhere to be seen until February 16, 2019 at which point they returned to the rental unit to collect their belonging.

In this case, I find that the Tenants have provided insufficient evidence to demonstrate that the Landlord changed the locks to the rental unit, preventing them to gain access. I find that the Tenants were at liberty to submit an application for dispute resolution at the time to seek a remedy under the *Act*. As such, I dismiss the Tenants' claim for compensation without leave to reapply.

### Conclusion

The Tenants' Application for the return of their security deposit is premature and dismissed with leave to reapply after the Tenants' provide their forwarding address to the Landlord, should the Landlord not comply with Section 38 of the *Act*.

The Tenants' claim for a monetary order relating to compensation 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: October 07, 2019

---

Residential Tenancy Branch