



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION ON REQUEST FOR CORRECTION

The applicant has requested a correction to an Order of the Residential Tenancy Branch dated October 29, 2019.

Section 78 of Residential Tenancy Act enables the Residential Tenancy Branch to correct typographic, grammatical, arithmetic or other similar errors in a decision or order, or deal with an obvious error or inadvertent omission in a decision or order.

In my original decision, a settlement agreement was reached between the two parties.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, extensive discussions between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

The landlord agreed to cancel the application for dispute filed.

The tenants agreed to cancel the application for dispute filed.

Both parties agreed to mutually end the tenancy on November 1, 2019, by which time the tenants will have vacated the rental unit.

The landlords agreed to cancel the 1 month notice to end tenancy issued for cause dated June 20, 2019 and the 10 Day Notice to End Tenancy for Unpaid Rent dated July 2, 2019.

Both parties agreed that the tenants shall pay to the landlord, \$9,375.00 for rental arrears for the period July, August, September and October 2019 forthwith.

Both parties agreed that upon the tenancy coming to an end, the landlord shall return to the tenants, the \$1,125.00 security deposit.

Both parties agreed that the tenants will forfeit the \$1,125.00 pet damage deposit to the landlord.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In the Request for Correction for a math error/obvious error, the applicant has written that:

I agreed to \$9,000.00 (4 months rent of \$2,250 (damage deposit) = \$6,750.00. The order/math is incorrect.

The original decision is based on the evidence submitted in the application and the testimony provided during the original hearing. The amounts specified were provided and confirmed by both parties during the settlement conference.

The particulars were clarified with both parties until consent to the settlement was made. I refer to the paragraph,

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

I note that although the tenants math concerning the unpaid rent is correct, the amount agreed to in settlement was specified and agreed to by both parties. I note that part of the discussions between the parties also pertained to damages.

I decline to make any correction and I confirm my original decision and order.

However, I offer some clarification as there appears to be confusion over the security deposit of \$1,125.00. The right to return of the security deposit is only when the tenancy ends pursuant to section 38. The settlement agreement made on October 29, 2019 was in part to mutually end the tenancy on November 1, 2019. As the tenancy

was not yet at an end the tenants were entitled to the security deposit until that did occur. I also note as part of the settlement agreement the tenants agreed to pay to the landlord \$9,375.00 in total compensation which included unpaid rent. The decision also states in part,

*In order to implement the above settlement reached between the parties, I issue a monetary order in the landlords' favour in the amount of \$9,375.00. I deliver this Order to the landlord in support of the above agreement for use in the event that the tenant(s) do not abide by the terms of the above settlement. The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court. **I note an exception to the above monetary claim when the tenancy is at an end that the landlord may offset the monetary claim granted by withholding the security deposit amount in partial satisfaction of the landlord's claim.***

This notation is in reference to section 72 (2) of the Act which allows a party (in this case the landlord) to deduct an owed amount from the other as stated below.

72 (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

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 13, 2020