



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSDS-DR, FFT

### Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an amended application made by the tenants seeking a monetary order for return of the security deposit or pet damage deposit and to recover the filing fee from the landlord for the cost of the application. The application was originally made by way of the Direct Request process which was referred to this participatory hearing.

One of the tenants attended the hearing, gave affirmed testimony and also represented the other tenant. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call.

The tenant testified that the landlord was served with the Amended Application for Dispute Resolution and notice of this hearing by registered mail on August 18, 2020 and has provided a Canada Post cash register receipt bearing that date.

### Issues to be Decided

Have the tenants established a monetary claim as against the landlord for return of all or part or double the amount of the security deposit?

### Background and Evidence

The tenant testified that this fixed-term tenancy began on March 1, 2014 and reverted to a month-to-month tenancy after February 29, 2016 which ultimately ended at the end of May, 2020. Rent in the amount of \$2,700.00 was originally payable on the 1<sup>st</sup> day of each month, which was raised during the tenancy up to about \$3,100.00, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$1,350.00, and no pet damage deposit was collected. The rental

unit was a condominium style apartment, and a portion of the tenancy agreement has been provided as evidence for this hearing.

The tenants gave notice to end the tenancy effective at the end of May, 2020 and provided the landlord with a forwarding address in writing on April 15, 2020 by email as well as on April 20, 2020 by leaving a note in the landlord's mailbox. The move-in and a move-out condition inspection reports were completed, and at move-out the tenants' forwarding address was also put on the move-out report. A copy of the report has been provided for this hearing which does contain a forwarding address of the tenants and is dated May 29, 2020.

The landlord returned \$1,021.03 to the tenants with a security deposit statement, which has also been provided for this hearing. It shows charges of \$132.72 for carpet cleaning, \$131.25 for blind cleaning, and \$65.00 for removal/disposal of abandoned items withheld by the landlord, for a total of \$328.97, and the balance of \$1,021.03 was to be returned to the tenant. The tenants did not agree that the landlord make any deductions, and the tenant believes that the landlord charged the tenants for preparing for a new tenant to occupy the rental unit.

The landlord has not served the tenants with an Application for Dispute Resolution claiming any part of the security deposit.

### Analysis

The *Residential Tenancy Act* requires a landlord to return a security deposit in full to a tenant within 15 days of the later of the date the landlord receives the tenant's forwarding address in writing or the date the tenancy ends, or must make an Application for Dispute Resolution claiming against the security deposit within that 15 day period. If the landlord fails to do so, the landlord must repay double the amount to the tenant.

In this case, the landlords have provided evidence that the move-out condition inspection report was completed on May 29, 2020 and the landlord received the tenants' forwarding address in writing on that form that date. The landlord returned a portion of the security deposit to the tenants, but not the entire security deposit. The landlord testified that the tenants have not been served with an Application for Dispute Resolution claiming against the security deposit, and I have no such application before me. The landlord provided a "security deposit statement," setting out deductions, however that does not suffice for the purposes of the *Act*.

I refer to Residential Tenancy Policy Guideline 17 – Security Deposit and Set off, which states, in part:

The following examples illustrate the different ways in which a security deposit may be doubled when an amount has previously been deducted from the deposit:

- Example A: A tenant paid \$400 as a security deposit. At the end of the tenancy, the landlord held back \$125 without the tenant's written permission and without an order from the Residential Tenancy Branch. The tenant applied for a monetary order and a hearing was held. The arbitrator doubles the amount paid as a security deposit ( $\$400 \times 2 = \$800$ ), then deducts the amount already returned to the tenant, to determine the amount of the monetary order. In this example, the amount of the monetary order is \$525.00 ( $\$800 - \$275 = \$525$ ).

In this case, the tenants have provided a copy of a portion of the tenancy agreement showing that the security deposit amount was \$1,350.00, and double that amount is \$2,700.00. The landlord returned \$1,021.03, and the difference is \$1,678.97, and I find that the tenants have established that amount.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,778.97.

This order is final and binding and may be enforced.

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: November 20, 2020

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Residential Tenancy Branch