



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDCT, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions, The parties acknowledged receipt of evidence submitted by the other.

### Issue to be Decided

Is the tenant entitled to a monetary award equivalent to the value of her security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*?

Is the tenant entitled to a monetary order as compensation?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background, Evidence

The tenant's testimony is as follows. The tenancy began on August 12, 2015 and ended on March 31, 2020. The tenant was obligated to pay \$1250.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$625.00 "security deposit" and a \$625.00 "damage deposit". The tenant testified that a written condition inspection report was conducted at move in and move out. The tenant testified at the move out the landlord didn't do the inspection but rather talked about various things for over two hours such as India, his health and what his diet is like. The tenant testified at the end of it he had her sign the move out inspection form to allow the landlord to keep the "damage deposit". The tenant testified that the landlord made her fill out a receipt back in August 2016 to say he would be paying her back the "security deposit" but was never given any money. The tenant testified that the landlord should return both deposits and the filing fee to her for a total claim of \$1350.00.

The landlord gave the following testimony. The landlord testified that he did collect two deposits since the unit was new when the tenant moved in. The landlord testified that he told the tenant that after one year he would return the "security deposit to her". The landlord testified that the tenant only paid half her rent for August 2016 to reflect that return. The landlord testified that the tenant's version of the move out inspection was "pure nonsense". The landlord testified that he didn't trick her or force her to agree to give up the "damage deposit". The landlord testified that the tenant caused far more damage than the deposit but considered the matter over and done with when she signed off on the move out inspection report.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the tenant, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below. The tenant said she is applying for the return of the security deposits as the landlord has not complied with the s. 38 of the *Residential Tenancy Act*. The landlord provided a receipt to show that the tenant did receive her "security deposit" back in August 2016. In addition, the landlord provided a condition inspection report that is signed by the tenant. The tenant did confirm that she did sign it. The tenant has not provided sufficient evidence of coercion or fraud that resulted in her signing over the "damage deposit". Based on the above, the documentation before me, and on a balance of probabilities, I dismiss the tenant's application in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed in its entirety 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 18, 2021

---

Residential Tenancy Branch