



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent and for other money, to retain the security deposit in full satisfaction of the claim and to recover the cost of the filing fee.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondents must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on January 21, 2021, and successfully delivered to the tenant, which was confirmed on February 19, 2021, when they spoke to the tenant.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

### Issues to be Decided

Are the landlords entitled to recover unpaid rent and other money owed?

Are the landlords entitled to keep the security deposit in full satisfaction of their claim?

### Background and Evidence

The tenants MK and ST entered into a co-tenancy agreement with the landlord. The tenancy agreement shows that the tenancy commenced on December 1, 2020 and was a fixed term expiring on June 1, 2021. Rent in the amount of \$1,750.00 was payable

on the first of the month. A security deposit of \$875.00 was paid by the tenants. The tenancy ended on December 1, 2020.

The landlord testified that sometime during the tenancy ST vacated the premises. The landlord stated ST did not end the tenancy and was aware that they were still responsible for the premises. The landlord stated that MK remained in the rental unit; however, they could not afford the rent a vacated, on December 1, 2020.

The landlord testified that the co-tenant ST, gave the landlord permission to keep the amount of \$696.46 from the security deposit for unpaid rent and other money owed in writing on January 9, 2020, and the balance of the security deposit was returned to ST. Filed in evidence is a copy of the signed document from the tenant ST giving the landlord permission to keep the above amount.

The landlord testified that they made this application because the co-tenant MK feels they are entitled to the return of the security deposit..

### Analysis

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

**38 ((4)A landlord may retain an amount from a security deposit or a pet damage deposit if,**

**(a)at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or**

**(b)after the end of the tenancy, the director orders that the landlord may retain the amount.**

In this case, the tenant ST, gave the landlord permission in writing that the landlords may retain the amount of \$696.46 from the security deposit, the balance was returned to ST.

ST had the right to give the landlord permission to do so, whether the co-tenant MK disagreed. I find the landlord is entitled to keep the agreed upon amount, in accordance with section 38(4) of the Act and as the balance has been returned to ST, I find there is no security deposit owed to the tenants. I find the landlord has complied with the Act.

At the conclusion of the hearing the landlord stated they are not seeking a monetary for the return of the filing from the tenant, that this simply want this matter to be concluded.

Conclusion

The landlords are entitled to keep the amount of \$696.46 from the security deposit. This was agreed to in writing by the co-tenant ST. The landlords have returned the balance due to ST and there is no further money due to the tenants.

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: May 21, 2021

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Residential Tenancy Branch