



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND MNSD FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held by teleconference on July 14, 2022. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit;
- authorization to retain all or a portion of the Tenant's security deposit in satisfaction of the monetary order requested pursuant to section 38; and,
- to recover the cost of the filing fee.

The Landlord (agent of) and one of the Tenants attended the hearing and provided affirmed testimony. The Tenants confirmed receipt of the Landlord's Notice of Dispute Resolution Proceeding and evidence packages. The Tenants confirmed that they did not provide any documentary evidence.

Both parties were provided the 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.

### Preliminary Matters

The Landlord initially applied for compensation in the amount of \$433.22 for damage to the rental unit and to claim against the deposits. The parties both confirmed that the Landlord still holds a security deposit and a pet deposit, totalling \$1,100.00. As part of

the Landlord's evidence, she uploaded a monetary worksheet several months after filing the application, and only a couple of weeks before the hearing. The worksheet specifies that the Landlord is seeking \$838.88. The Landlord confirmed that she did not file an amendment to her initial application to increase, change, or modify her initial application and the amounts listed.

As stated in the hearing, in order to increase the amount of monetary compensation sought in a proceeding, a formal amendment must be filed with our office, and served to the respondent. This form is titled "RTB-42L Landlord Request to Amend an Application for Dispute Resolution". Since this has not been done, I find the Landlord application is limited to the amount set out on the initial application, which amounts to \$433.22.

I asked the Landlord to explain how the amount of \$433.22 was calculated, which items it includes, and what each item amounts to, and she was unable to explain. The Landlord was unsure which items were included in the amount on her initial application, and could not clarify what it was based on. A significant amount of time was spent trying to understand the amounts and the different items. However, the Landlord was unable to provide the necessary clarity to explain the amounts and items included in her initial application for \$433.22. The Tenant was also unsure which items were included in the Landlord's initial application. I find the confusing and unclear presentation of items and amounts is prejudicial to the respondent, and wasted significant time in the hearing. Given the above, I hereby dismiss the Landlord's application, in full, with leave to reapply, pursuant to section 59(2)(b) of the Act.

Given the Landlord's application against the Tenant's security and pet deposit is dismissed, with leave to reapply, I turn to the following portion of Policy Guideline #17:

***C. RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH DISPUTE RESOLUTION***

*The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:*

- a landlord's application to retain all or part of the security deposit;*
- or*
- a tenant's application for the return of the deposit.*

*unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the*

*deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.*

There is no evidence before me to show that the Tenants extinguished their right to the deposit. Both parties agree that the Landlord holds deposits totalling \$1,100.00. As the Landlord has not yet returned these amounts, and the application against the deposits have been dismissed as part of this hearing, I order the Landlord return the deposits, in full.

The Landlord must return the deposits, in full, and if he wishes to pursue a claim for monetary compensation for damage to the rental unit, he must re-apply and pursue that claim separately.

I issue a monetary order in favour of the Tenants for \$1,100.00

### Conclusion

The Tenant is granted a monetary order pursuant to Section 67 in the amount of **\$1,100.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenants may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: July 14, 2022

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Residential Tenancy Branch