



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNSDB-DR, FFT

### Introduction

This hearing dealt with the adjourned Direct Request Application filed by the Tenant under the *Residential Tenancy Act* (the “Act”). The Tenant applied for the return of their security deposit and the recovery of the filing fee for this application. The matter was set for a conference call.

One of the Tenants (the “Tenant”) and the Landlord attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and the Tenant were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all evidence and testimony 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.

### Issues to be Decided

- Is the Tenant entitled to the return of their security deposit?
- Is the Tenant entitled to the return of the filing fee for this application?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Tenant testified that the tenancy began on April 1, 2014, that rent in the amount of \$1,398.00 was to be paid by the first day of each month and that the Tenant paid the Landlord a \$640.00 security deposit and a \$200.00 pet damage deposit at the outset of this tenancy. The Tenant submitted a copy of the tenancy agreement into documentary evidence.

The Tenant testified that the tenancy ended on April 30, 2022, that the move-out inspection was completed on May 1, 2022, and that they provided the Landlord with their forwarding address that same day by writing it on the move-out inspection document. The Tenant submitted a copy of the move-out inspection into documentary evidence.

The Tenant was asked to speak to section Z of the move-out inspection, the Tenant testified that they did sign this section, and had at the time of signing agreed to the Landlord keeping the deposits for this tenancy but that they feel they had been pressured to signing it because they had not known that they needed to be fully moved out by April 30, 2022 and that when the Landlord advised them they were over holding the unit on May 1, 2022, causing the new renter to be displaced. So, they agreed to sign this section in order to appease the Landlord.

The Tenant also testified that they did not recall that he had agreed to the Landlord keeping the \$200.00 pet damage deposit indicated in section Z.

The Landlord testified that the Tenant agreed in writing to them keeping the deposits for this tenancy due to overholding the rental unit and cleaning that was required.

### Analysis

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

Section 38(4) of the *Act* states the following regarding the return of the security deposit at the end of a tenancy:

#### ***Return of security deposit and pet damage deposit***

*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.*

I accept the testimony of the Tenant, that they did sign section Z of the move-out inspection that they submitted into documentary evidence.

I have reviewed the totality of the testimony provided during these proceedings and the documentary evidence submitted, and I find that there is insufficient evidence before me to show that the Landlord has pressured the Tenant in any way to sign section Z of the move-out inspection on May 1, 2022.

Consequently, I find that the Tenant had legally signed their security and pet damage deposit over to the Landlord for this tenancy; therefore, I dismiss the Tenant's claim for the return of their security and pet damage deposits in its entirety.

Finally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant has not been successful in their application, I find that the Tenant is not entitled to recover the \$100.00 filing fee.

### Conclusion

I dismiss the Tenant's claim in its entirety.

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: March 20, 2023

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Residential Tenancy Branch