



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes MNSD-S, MNDL-S, FFL

### Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties pursuant to the Residential Tenancy Act (the “Act”) for Orders as follows:

The Tenant applied as follows:

- For return of the Tenant’s security deposit pursuant to section 67 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

The Landlord applied as follows:

- For a monetary order for damage to the rental unit pursuant to section 67 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

### Issue(s) to be Decided

Is the Tenant entitled to the return of their security deposit?

Is the Landlord entitled to retain the security deposit for damage?

Is either party entitled to return of their filing fee?

### Background and Evidence

The Tenant’s agent SG appeared. The Landlord did not appear. I note that there was a hearing of this matter on October 3, 2023 which was adjourned due to lack of time.

That hearing was conducted by a different arbitrator, therefore I will proceed with the hearing anew.

The Tenant's agent confirmed that the Landlord was served with their dispute notice and evidence by registered mail on July 11, 2023. She provided a Canada Post Tracking number in evidence.

The Tenant's agent testified that the tenancy commenced on November 1, 2019. Rent was \$3,072.00 per month due on the first of the month. The Tenant paid a security deposit of \$1,667.50. The tenancy ended on March 1, 2023.

The Tenant's agent testified that at a move in inspection was conducted with the Tenant present on October 22, 2019. A move out inspection was completed with the Tenant's agent present on March 28, 2023. At that time the Tenant's agent signed the move out inspection and did not agree to any deductions from the security deposit. The Tenant's agent stated in the hearing that she had agreed to cleaning costs, but that is not reflected on the move out inspection. The move in and move out inspection form was provided in evidence.

The Tenant's agent further testified that \$693.75 of the Tenant's security deposit was returned on May 10, 2023. The Tenant had provided a forwarding address on April 12, 2023 by registered mail and provided confirmation from Canada Post that the Landlord received the registered mail on April 12, 2023. I note that the Landlord filed an application for dispute resolution on June 30, 2023. An email was provided in evidence from the tenant's agent to the landlord asking to receive a copy of the move out inspection.

The Tenant is applying for the return of the remainder of the security deposit, as the Landlord has not shown why the remaining amount of deposit is being withheld.

The Landlord did not appear at the hearing.

### Analysis

The Landlord did not appear and therefore their application is dismissed without leave to reapply.

The evidence of the Tenant's agent is that the Landlord withheld a portion of the security deposit without the Tenant's agreement and did not file an application for dispute resolution within 15 days of receiving the Tenant's forwarding address.

Both parties complied with their requirements under the Act to complete a move in and a move out inspection. The Tenant did not agree to allow the Landlord to withhold any portion of the security deposit.

Under section 38 of the Act, if the Tenant does not agree to allow the Landlord to retain any portion of the security deposit, the Landlord is required to either return the entire deposit within 15 days of receiving the Tenants forwarding address, or make an application for dispute resolution. The Landlord returned \$693.75 of the \$1,667.50 security deposit on May 10, 2023. The Act required return by April 27, 2023, 15 days after receipt of the tenant's forwarding address. Therefore section 38 of the Act requires that I double the Tenant's security deposit for return. However I will also deduct the amount returned to the tenant.

I find that the Tenant is entitled to compensation representing double the security deposit less the \$663.75 returned to the Tenant.

As the Tenant was successful in their application I find that they are also entitled to return of their filing fee of \$100.00.

### Conclusion

The Tenant is entitled to a monetary order as follows:

Item	Amount
Security deposit (doubled)	\$3,335.00
Amount returned	(\$693.75)
Filing fee	\$100.00
Total	\$2,741.25

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: February 01, 2024