

## **DECISION**

### **Introduction**

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for unpaid rent under section 67 of the Act
- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

I find that the Landlord(s) was served the Proceeding Package in accordance with the Act. The Tenant provided a registered mail receipt to support this.

I find that the Tenant(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

### **Service of Evidence**

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

## **Issues to be Decided**

Is the landlord entitled to a Monetary Order for unpaid rent?

Is the landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?

Is the Landlord entitled to recover the filing fee for this application from the Tennant?

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## **Facts and Analysis**

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The Tenant provided a copy of the tenancy agreement that shows the tenancy started on September 27, 2024, with a \$725.00 security deposit.

The Tenant affirms he vacated the rental unit on August 26, 2024, and the Landlord still retains the full security deposit. The Tenant affirms providing his forwarding address to the Landlord on September 6, 2024.

### **Is the Landlord entitled to a Monetary Order for unpaid rent?**

As the Landlord did not attend the hearing, per Rule of Procedure 7.3, I dismiss the Landlord's application without leave to reapply.

### **Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?**

As the Landlord did not attend the hearing, per Rule of Procedure 7.3, I dismiss the Landlord's application without leave to reapply.

### **Is the Landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?**

As the Landlord did not attend the hearing, per Rule of Procedure 7.3, I dismiss the Landlord's application without leave to reapply.

### **Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?**

The Tenant affirms the Landlord did not do a proper Condition Inspection report at move in.

He further affirms that he did a walkthrough of the rental unit with the Landlord at move out, but a written Condition Inspection report was not completed despite his asking the Landlord to do so. The Tenant affirms leaving the rental unit in good condition when he vacated and affirms the Landlord said as much and that he would return the security deposit.

In the absence of evidence to the contrary I find the Tenant is entitled to the return of the full amount of his security deposit, \$725.00, plus \$21.23 of interest.

I further find that, per section 36 of the Act, the Landlord extinguished his right to claim against the security deposit for damages by not completing a written Condition Inspection Report after doing a move out walkthrough of the rental unit with the Tenant.

Therefore, I further find that the Landlord contravened section 38 (1) of the Act by not returning the Tenant's security deposit, minus the amount the Landlord claimed for unpaid rent, and as such the Tenant is entitled to the doubling of the security deposit per section 38 (6)(b) of the Act.

I find the Tenant is entitled to a Monetary Order for the return of his security deposit in the amount of \$1,382.23.

**Is the Landlord entitled to recover the filing fee for this application from the Tennant?**

As the Landlord was not successful in this application, the Landlord's application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

**Is the Tennant entitled to recover the filing fee for this application from the Landlord?**

As the Tenant was successful in their application, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Conclusion**

I grant the Tenant a Monetary Order in the amount of **\$1,482.23** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act	\$1,382.23
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$1,482.23</b>

The Tenant is provided with this Order in the above terms and the Landlord (s) must be served with **this Order** as soon as possible. Should the Landlord (s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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 Act.

Dated: November 21, 2024

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Residential Tenancy Branch