



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes

For the landlord MNSD, FF

For the tenants MNDC, MNSD, FF

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenants and one brought by the landlord. Both files were heard together. The landlord requests to keep the tenants security deposit and recover the filing fee for this application. The tenants seek a Monetary Order for compensation for damage or loss under the *Act*, regulation or tenancy agreement and to recover the filing fee paid for their application. The tenants also seek to recover their security and pet damage deposit.

I find that both parties were properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party and witness, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Is the landlord entitled to keep all or part of the security deposit?
- Is the landlord entitled to recover filing fees from the tenant for the cost of the application?
- Are the tenants entitled to compensation for damage or loss under the *Act* and if so how much?
- Is the tenant entitled to receive the security deposit back?

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- Are the tenants entitled to recover the filing fee from the landlord for the cost of the application?

## Background and Evidence

Both parties agree that the tenancy started on June 01, 2009. The tenants and landlord had a verbal agreement that this would be a fixed term tenancy for three months. The tenants moved from the property on August 31, 2009. Rent for this basement suite was \$1,200.00. This amount was reduced to \$1,050.00 as per an agreement the parties had that the tenants would cut the grass at the property. The tenants paid a security deposit of \$600.00 on May 22, 2009 and a pet damage deposit of \$50.00 on July 31, 2009. No move in condition inspection was carried out by either party. The tenants and landlord completed a visual inspection at the end of the tenancy and agreed that the unit was left in a good condition with approximately one and half hours of additional cleaning required under the fridge, stove and bathroom sink. Both the landlord and tenant signed this statement but no sum of money was agreed that the landlord could retain from the tenants security deposit. The tenants forwarding address was provided in writing to the landlord on August 31, 2009.

The landlord testifies that the rent was \$1,200.00 per month and she agreed to reduce this amount by \$150.00 as the tenants agreed to do lawn and yard maintenance. The landlord states that she did not have a lawnmower but the tenants told her they could borrow one to do the work. The landlord claims that the tenants did not do the yard work and only mowed the grass once in the three months they lived there. She requests a return of the rent reduction of \$150.00 per month for three months as the agreed upon work was not completed by the tenants. The landlords witness confirms the landlords' agreement with the tenants about having the rent reduction for lawn mowing services and she testifies that she was witness to the tenant stating that he could get a lawn mower from his brother or a friend to do the work. The landlord paid \$40.00 to another party to cut the lawn.

The landlord testifies that the tenants did not clear up after their dog and she had to clear dog feces from the back yard. She requests to keep the pet damage deposit in compensation for this work.

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The tenants testify that they could not get a lawn mower to cut the grass and asked the landlord to provide one. They testify that the landlord did not do this so they were unable to cut the grass.

The tenants testify that they did initially pick up the dog feces but were told the dog could not use the back yard so they walked the dog elsewhere. They argue that the landlord did not have to clear up after their dog.

The tenants claim that the landlord did not give them proper notice to move from the rental unit and as such they incurred additional moving costs, gas for moving at \$50.00, storage fees at \$137.00 and rent for their new residence at \$800.00 and \$250.00 pet damage despoit. The tenants are also claiming compensation for carpet cleaning at \$80.00 and for a cleaning lady at \$60.00. The tenants are also claiming compensation for suffering and time lost at a sum of \$1,000.00.

## Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties and witness. With regards to the landlords claim to keep the tenants security deposit for additional cleaning costs, I find she has not provided sufficient evidence to support her claim. Under the *Residential Tenancy Act* section 32 a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore, the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlords have not shown that the tenants failed to meet the "reasonable" standard of cleanliness required.

With regards to the landlords claim for \$40.00 for a cost she claims to have incurred hiring someone else to mow the grass. I find the landlord has not provided any evidence such as an invoice for this work therefore this section of her claim is dismissed.

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In order to keep part or all of a security or pet damage deposit for damages a landlord must conduct a move in and move out condition inspection pursuant to s 23 and 35 of the *Act*. If the landlord does not comply with these sections of the *Act* she extinguishes her right to make a claim to keep all or part of the security or pet damage deposit pursuant to section 36(2) of the *Act*. Therefore, I find the landlord did not carry out either a move in or move out condition inspection and has provided no evidence that she had to clean up after the tenant's dog. I therefore dismiss her claim to keep \$50.00 of the pet damage deposit.

With regards to the landlords claim to recover the rent reduction she gave the tenants to mow the grass. I find in favor of the landlords claim for \$450.00. The tenants admit they did have an agreement with the landlord to cut the grass and receive a rent reduction of \$150.00 per month for this work. I prefer the evidence of the landlord and her witness as to the verbal agreement in place concerning the tenant's supply of a lawn mower to carry out this work. If the tenant had found after they had entered into an agreement to cut the grass that they were unable to obtain the use of a lawn mower they were not then entitled to receive the rent reduction from the landlord. I find therefore, the landlord may deduct **\$450.00** from the tenant's security deposit to compensate her for this loss of rent.

The tenants are entitled to recover the remainder of their security and pet damage deposit. As the tenants gave the landlord their forwarding address in writing the landlord had 15 days to return the security and pet damage deposit or apply for dispute resolution. The landlord applied for dispute resolution on September 14, 2009. As the landlord has not been wholly successful in her claim to retain all or the tenants deposits the tenants are entitled to recover double the remainder of the deposits back from the landlord of **\$400.00** pursuant to section 38(6)(b) of the *Act*.

With regard to the remainder of the tenants application for compensation for damage or loss I find this section of their application has no merit. The tenants were aware that this was a three month fixed term rental and they would have to move out at the end of the fixed term unless a new agreement was entered into. As the landlord did not renew her agreement the tenants would have incurred their moving costs in moving to a new rental unit. I also find the landlord is



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not responsible for the tenants rent or pet damage deposit at their new residence. I find the tenants were responsible for cleaning the carpets and unit at the end of their tenancy. The Residential Tenancy Policy Guidelines #1 states that a tenant may be expected to clean the carpets at the end of a tenancy regardless of the length of a tenancy if they have kept a pet. I find the tenants claim for compensation for suffering and time lost has no merit. The tenants have not provided any evidence to support this section of their claim for \$1,000.00. Due to the above the remainder of the tenant's application is dismissed.

## Conclusion

I HEREBY order the landlord to retain **\$450.00** from the tenants' security deposit pursuant to section 38(4)(b). The remainder of the landlords' application is dismissed without leave to reapply.

I HEREBY ORDER the landlord to return **\$400.00** to the tenants for double the balance of their security and pet damage deposit. The remainder of the tenants' application is dismissed without leave to reapply.

I order both parties to bear the cost of filing their own applications.

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: November 06, 2009.

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Dispute Resolution Officer