



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNNSD, FF

### Introduction

This hearing was scheduled in response to the tenants' application for a monetary order reflecting the double return of the security deposit / and recovery of the filing fee. Both tenants and the agent representing the landlord attended and gave affirmed testimony.

It is noted that the landlord's address for service as shown on the tenancy agreement is the residential address of the landlord's agent. It is that address which was used by the tenants for service of the application for dispute resolution and the notice of hearing. The landlord's agent testified that she formerly managed the unit, but does no longer.

As to the style of cause shown for the landlord on the tenants' application, this was amended to identify not only the landlord's agent, but also the commercial name of the landlord as shown on the tenancy agreement.

The attention of the parties is drawn to section 1 of the Act which provides in part:

**“landlord”**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

### Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

## Background and Evidence

Pursuant to a written tenancy agreement tenancy began on April 15, 2014. Monthly rent was \$1,100.00, and a security deposit of \$550.00 was collected. A \$50.00 cable deposit was also collected. A move-in condition inspection report was completed with the participation of both parties.

Tenancy ended July 29, 2014, at which time a move-out condition inspection report was completed with the participation of both parties. The tenants provided the landlord with their forwarding address on the move-out condition inspection report, and there was no indication on the report that the landlord had any intention other than to return the tenants' deposit(s) in full.

Subsequently, however, the landlord withheld \$219.49 from the total of \$600.00 collected at the start of tenancy, and repaid the balance to the tenants \$380.51. The tenants object to the landlord's unauthorized withholding of funds from the security deposit. However, the landlord's agent claims that renters moving into the unit following the end of the subject tenancy found that the unit was insufficiently clean, and cleaning costs were then charged to the tenants in this dispute.

## Analysis

Section 38 of the Act addresses **Return of security deposit and pet damage deposit**. In part, this section provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security / pet damage deposit(s), or file an application for dispute resolution. If the landlord does neither, section 38(6) of the Act provides that the landlord may not make a claim against the security / pet damage deposit(s) and must pay the tenant double the amount of the security / pet damage deposit(s).

Based on the documentary evidence and the affirmed testimony of the parties, I find that the \$380.51 repaid to the tenants is comprised of the full \$50.00 cable deposit, in addition to \$330.51 of the original \$550.00 security deposit.

I find that the landlord neither repaid the full amount of the security deposit, nor filed an application for dispute resolution within 15 days after the end of tenancy on July 29, 2014. In the result, I find that the tenants have established a net entitlement to compensation of **\$819.49**, which is calculated as follows:

$\$1,100.00: (2 \times \$550.00)$  double the original security deposit

+ \$50.00: *filing fee*

**\$1,150.00**

**MINUS**

**\$330.51**: *amount of security deposit already repaid*

**Net Entitlement: \$819.49**

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$819.49**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims 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 *Residential Tenancy Act*.

Dated: March 23, 2015

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Residential Tenancy Branch

